Dow, Lohnes & Albertson, pllc
ATTORNEYS AT LAW

M. ANNE SWANSON
DIRECT DIAL (202) 776-2534
aswanson@dowlohnes.com

WASHINGTON, D.C.
1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222

one ravinia drive suite 1600
atlanta, georgia 30346-2108
telephone 770-901-8800
facsimile 770-901-8874

March 24, 2006

VIA ELECTRONIC FILING

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notification of Ex Parte Communication
MB Docket Nos. 02-277 and 03-130
MM Docket Nos. 01-235, 96-197, 01-317, and 00-244

Dear Ms. Dortch:

This is to advise you, in accordance with Section 1.1206 of the FCC's rules, that on March 23, 2006, George Mahoney, Vice President, General Counsel and Secretary of Media General, Inc. ("Media General"), and I met with Diego T. Ruiz, Deputy Chief, Office of Strategic Planning and Policy Analysis, and Leslie M. Marx, Chief Economist, to provide background on and review the positions Media General has previously taken in the above-referenced dockets. At the meeting, Media General provided the enclosed handouts.

As required by Section 1.1206(b), as modified by the policies applicable to electronic filings, one electronic copy of this letter is being submitted for each above-referenced docket.

Very truly yours,

M. Anne Swanson

Enclosures
cc w/encl. (by email):
Mr. Diego T. Ruiz
Dr. Leslie M. Marx

EXECUTIVE SUMMARY

Newspaper/Broadcast Cross-Ownership Restrictions Must Be Significantly Lessened, If Not Eliminated

- Adopted in 1975, the FCC's newspaper/broadcast cross-ownership rule is the only FCC media ownership rule that has been in effect in its original form for over three decades despite vast changes in the media marketplace.

- In its July 2003 decision revising its media ownership rules, the FCC relaxed the newspaper/broadcast cross-ownership rule somewhat, permitting newspaper/broadcast cross-ownership in television markets with nine or more stations.

  For markets with four to eight television stations, the FCC decided to allow only limited cross-ownership. There, the FCC said that one party could own a daily newspaper and television, but only 50 percent of the radio stations allowed under the local radio ownership rule. Alternatively, newspaper publishers could own up to 100 percent of the allowable radio limit, provided they did not own a television station. In markets with fewer than four television stations, the FCC retained the wholesale ban on newspaper/broadcast cross-ownership.

  On September 3, 2003, the United States Court of Appeals for the Third Circuit stayed the FCC's new rules, and the 1975 ban still remains in effect, following the Third Circuit's reversal and remand of the FCC's decision in June 2004 and the Supreme Court's refusal in June 2005 to grant *certiorari* petitions seeking review.

- Even if the FCC's new rules had gone into effect, cross-ownership would have been restricted in more than half of the nation's 210 television markets. Over thirty markets have fewer than four television stations, and over 100 markets fall into the "four to eight television station" tier.

- Media General's experience demonstrates that significant relaxation, if not elimination, of the rule will improve and enhance the delivery of local news in communities of all sizes and will not harm competition in local advertising markets. Small market relief is critical.

- The 1996 Telecommunications Act, the extensive record the FCC has amassed in various proceedings over the last ten years, and recent D.C. Circuit decisions compel significant relaxation, if not elimination, of the newspaper/broadcast cross-ownership rule.

- Any restriction on newspaper/broadcast cross-ownership cannot withstand First Amendment analysis because the Supreme Court has observed that changing market conditions have undermined the scarcity rationale, and the FCC itself has acknowledged that the theory of spectrum scarcity is no longer valid.

- The Equal Protection Clause requires a rational basis for differing treatment of similar groups, and any restriction that treats newspaper publishers differently from all other media cannot be shown to have such a rational basis.

- Not only is any restriction on newspaper/broadcast cross-ownership not "necessary in the public interest," it actually stifles innovation; the public interest in fact requires the complete elimination of such restrictions.

Daily Newspapers Owned by Media General, Inc. (2005)

DMA No.	DMA Name	Daily Newspaper
8	Washington, DC (Hagerstown, MD)	*Culpeper Star-Exponent* *Manassas Journal Messenger* *(Woodbridge) Potomac News*
12	*Tampa-St. Petersburg (Sarasota), FL	*The Tampa Tribune* *Highlands Today (Sebring)* *Hernando Today (Brooksville)*
27	Charlotte, NC	*Hickory Daily Record* *The Concord & Kannapolis Independent Tribune* *Statesville Record & Landmark* *The (Morgantown) News Herald*
35	Greenville-Spartanburg, SC-Asheville-Anderson, NC	*The (Marion) McDowell News*
47	Greensboro-High Point-Winston Salem, NC	*The Winston-Salem Journal* *The (Eden) Daily News* *The Reidsville Review*
60	Richmond-Petersburg, VA	*The Richmond Times-Dispatch*
68	*Roanoke-Lynchburg, VA	*The (Lynchburg) News & Advance* *Danville Register & Bee*
91	*Tri-Cities, TN-VA	*Bristol Herald Courier*
107	*Myrtle Beach-Florence, SC	*The (Florence) Morning News*
127	*Columbus, GA	*Opelika-Auburn News*
157	*Panama City, FL	*Jackson County Floridian*
172	Dothan, AL	*The Dothan Eagle* *Enterprise Ledger*
181	Harrisonburg, VA	*The (Waynesboro) News Virginian*
186	Charlottesville, VA	*The Daily Progress*

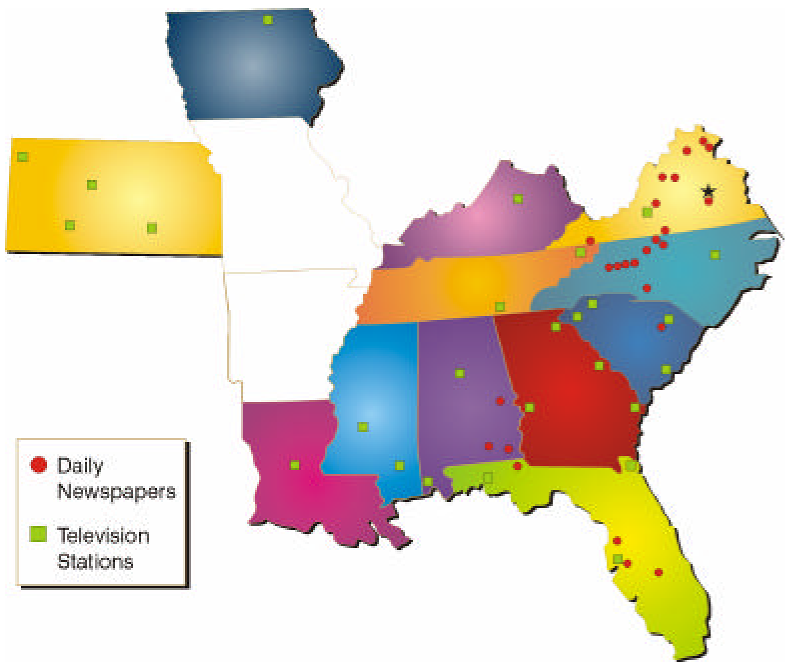
* Media General convergence underway

Television Stations Owned by Media General, Inc. (2005)

DMA No.	DMA Name	Station	Network	Daily Newspaper
12	*Tampa-St. Petersburg, FL	WFLA-TV	NBC	*The Tampa Tribune* *Highlands Today (Sebring)* *Hernando Today (Brooksville)*
35	Greenville-Spartanburg, SC-Asheville-Anderson, NC	WSPA-TV WASV-TV WNEG-TV***	CBS UPN CBS	*The (Marion) McDowell News*
40	Birmingham (Anniston, Tuscaloosa), AL	WIAT(TV)	CBS	
52	Jacksonville, FL	WJWB(TV)	WB	
62	Mobile, AL-Pensacola (Ft. Walton), FL	WKRG-TV	CBS	
63	Lexington, KY	WTVQ-TV	ABC	
67	Wichita-Hutchinson Plus, KS	KWCH-TV KBSH-TV*** KBSD-TV*** KBSL-TV***	CBS	
68	*Roanoke-Lynchburg, VA	WSLS-TV	NBC	*The (Lynchburg) News & Advance* *Danville Register & Bee* *The Reidsville Review* *The (Eden) Daily News*
86	Chattanooga, TN	WDEF-TV	CBS	
89	Jackson, MS	WJTV(TV)	CBS	
91	*Tri-Cities, TN-VA	WJHL-TV	CBS	*Bristol Herald Courier*
97	Savannah, GA	WSAV-TV	NBC	
101	Charleston, SC	WCBD-TV	NBC	
105	Greenville-New Bern-Washington, NC	WNCT-TV	CBS	
107	*Myrtle Beach-Florence, SC	WBTW(TV)	CBS	*The (Florence) Morning News*
115	Augusta, GA	WJBF-TV	ABC	
127	*Columbus, GA	WRBL(TV)	CBS	*Opelika-Auburn News*
152	Rochester, MN-Mason City, IA-Austin, MN	KIMT(TV)	CBS	
157	*Panama City, FL	WMBB(TV)	ABC	*Jackson County Floridan*
167	Hattiesburg-Laurel, MS	WHLT(TV)***	CBS	
176	Alexandria, LA	KALB-TV	NBC	

* Media General convergence underway
*** Satellite Station

Media General



Media General is an independent, publicly owned communications company situated primarily in the Southeast with interests in newspapers, television stations, interactive media, and diversified information services. Its corporate mission is to be a leading provider of high-quality news, information and entertainment in the Southeast by continually building its position of strength in strategically located markets.

Media General is one of the media industry's leading practitioners of "convergence," the melding of newspaper, television and on-line resources in the gathering and dissemination of local news. Its Tampa News Center is the most advanced convergence laboratory in the nation, and the only one where a newspaper, a television station, and an on-line division are located together under one roof. Further convergence efforts currently are underway in five additional Media General markets, and other collaborative efforts are being initiated in all Media General markets.

Media General's publishing assets have grown from three daily newspapers as recently as 1995 to 25 today; they include *The Tampa Tribune*, the *Richmond Times-Dispatch*, the *Winston-Salem Journal*, and 22 other daily newspapers in Virginia, North Carolina, Florida, Alabama and South Carolina, as well as nearly 100 weeklies and other periodicals. From a base of three television stations at the beginning of 1997, Media General's 26 network-affiliated television stations today reach more than 30 percent of the television households in the Southeast, and nearly 8 percent of those in the United States. (The juxtaposition of Media General's mostly small- and mid-market television stations and many of its daily newspapers can be found on the preceding page.) Media General's Interactive Media Division also provides online content that includes news, information, and entertainment services at virtually every one of the company's operating locations.

RESTRICTIONS ON NEWSPAPER/BROADCAST CROSS-OWNERSHIP STIFLE CONVERGENCE AND INNOVATION; THEY CANNOT BE JUSTIFIED LEGALLY, AND THEY HARM THE PUBLIC INTEREST

- **Adopted in 1975, the FCC's newspaper/broadcast cross-ownership rule is the only FCC media ownership rule that has been in effect in its original form for over three decades.**

  - The media marketplace today is vastly different than in 1975. There has been an absolutely explosive growth in media outlets -- and in diversity. Television and radio outlets have more than doubled in this period. Cable and DBS are now the primary sources of video delivery to the home. Satellite radio services have begun to show significant gains in market share. Low power television and radio, weekly newspapers, and the Internet have become viable competitors. Only daily newspapers have decreased in number and circulation.

  - In the same period, Congress, the FCC, and the courts have eliminated the national cap on radio ownership, liberalized the national television cap, allowed ownership of television duopolies and multiple radio stations per market, and completely removed the ban on television/cable cross-ownership.

  - The newspaper/broadcast cross-ownership rule is the only FCC ownership restriction that directly affects the actions of and valuations in an industry that is not within the FCC's statutory jurisdiction, the newspaper industry.

- **Media General's experience demonstrates that significant relaxation, if not elimination, of the rule will improve and enhance the delivery of local news to communities, large and small, across America.**

  - Convergence melds all the advantages of print, broadcast, and on-line operations to provide multiple channels and streams of useful information when, where, and how consumers want it.

  - Convergence enhances the coverage and dissemination of local news, sports, and other events by newspapers and broadcast stations, which, as a result of common ownership, are best able to pool their resources for news gathering and production in ways that Media General's experience in Tampa and five other markets is demonstrating. In short, convergence allows Media General and other media owners to deliver better, faster, and deeper local news.

  - Better coverage of local news generally leads to larger audiences and, therefore, strengthened demand for local broadcast stations and newspapers. More effective competition will help reverse the decline in newspaper circulation and slow the steady loss of television viewers.

  - Local news is extremely expensive to produce, and network compensation to stations is being reduced dramatically -- and even eliminated in many cases. The impact of these facts is greatest in smaller markets. In the last few years, over fifty local TV newscasts have been cancelled or curtailed. (*See* Attachment 1.) Elimination of newspaper/broadcast cross-ownership restrictions will allow newspapers to strengthen and reinvigorate local TV news operations and improve the quality and breadth of local news.

- In the end, convergence strengthens local media outlets vis-à-vis larger media conglomerates which deliver a national and undifferentiated news product across all markets.

➢ **The 1996 Telecommunications Act, the extensive rulemaking record the FCC has amassed, and recent D.C. Circuit decisions compel significant relaxation, if not total repeal, of the newspaper/broadcast cross-ownership rule.**

- Congressional intent, as expressed in Section 202(h) of the 1996 Telecommunications Act, is clear:

> "The Commission *shall* review its rules adopted pursuant to this section and all of its ownership rules biennially as part of its regulatory reform review under section 11 of the Communications Act of 1934 and *shall* determine whether any of such rules are necessary in the public interest as a result of competition. The Commission *shall* repeal or modify any regulation that it determines to be no longer in the public interest."

- The United States Court of Appeals for the District of Columbia Circuit has ruled that Section 202(h) establishes a presumption in favor of prompt repeal.

  -- *Fox*: "The Commission's wait-and-see approach cannot be squared with its statutory mandate promptly . . . to 'repeal or modify' any rule that is not 'necessary in the public interest.'" (*Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027, 1042 (D.C. Cir. 2002)).

  -- *Sinclair:* "In applying the statute, we have squarely considered and rejected the kind of cautionary approach employed by the FCC. . . ." (*Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d 148, 171 (D.C. Cir. 2002) (Sentelle, J, partially dissenting).

  -- These decisions compel the FCC to act on the extensive record it has accumulated -- and significantly relax, if not repeal, the rule.

- The FCC has accumulated a thorough and complete record on the newspaper/broadcast cross-ownership rule over the last ten years. This record fully supports the prompt and complete elimination of the rule. The rule has come before the agency in the following seven instances:

-- *1996 NOI.* The FCC's October 1996 *Notice of Inquiry* sought initial and reply comments on adopting a less restrictive policy for waivers of the newspaper/broadcast cross-ownership rule as it applies to radio stations. Despite a record that strongly favored adoption of a liberalized policy, the FCC never acted on the *Notice*.

-- *First NAA Petition.* On April 27, 1997, the National Newspaper Association ("NAA") filed a "Petition for Rulemaking," urging the FCC to commence a proceeding to eliminate all restrictions on common ownership of radio and television stations. The FCC did nothing in response to this filing.

-- *Second NAA Petition.* On August 23, 1999, NAA submitted an "Emergency Petition for Relief," urging repeal particularly in light of the FCC's significant liberalization earlier that month of the television duopoly rule. The FCC did nothing in response to this filing.

-- *1998 Biennial Review.* As required by Section 202(h), the FCC in 1998 commenced a biennial review of its media ownership rules. In the course of this docket, which treated the two NAA petitions as comments, the FCC received overwhelming support for the repeal or modification of the rule. In the report issued at the conclusion of the proceeding in June 2000, the FCC said it would soon initiate a notice of proposed rulemaking seeking comment on repeal of the newspaper/broadcast cross-ownership rule because the rule might not be necessary to achieve its intended public interest benefits in all instances.

-- *2000 Biennial Review.* In the report concluding its 2000 Biennial Review proceeding, which was issued in January 2001, the FCC again said it would be issuing a notice of proposed rulemaking on the newspaper/broadcast cross-ownership rule.

-- *2001-2002 Newspaper/Broadcast NPRM.* In September 2001, the FCC finally released a notice of proposed rulemaking, seeking comment on elimination of the newspaper/broadcast cross-ownership rule. In response, the FCC received virtually unanimous industry support for repealing the rule, and numerous economic and programming studies demonstrated such repeal would be in the public interest. Out of the scores of substantive comments, only a handful opposed repeal. Despite compilation of an extensive record, the FCC, concerned over recent appellate court losses criticizing its approach to rulemaking, chose to defer action for yet another rulemaking.

-- *2002 Omnibus NPRM.* In September 2002, the FCC released a notice of proposed rulemaking seeking comment on all its media ownership rules. In the course of the proceeding, the agency released 12 studies it had commissioned. The six studies that bear some tangential relationship to this rule document that its repeal would enhance the public interest. In both the 2001-02 and 2002 proceedings, consumer and labor groups opposing repeal failed to support their opinions about the need for the rule's retention with any substantive, empirical studies that meet Section 202(h)'s burden for sustaining the rule.

- **Broadcast "spectrum scarcity" no longer exists and cannot justify a cross-ownership rule.**

  - The FCC's retention of newspaper/broadcast cross-ownership restrictions is no longer constitutionally justified. In 1975, the FCC adopted the newspaper/broadcast cross-ownership rule to obtain a "hoped for" increase in local diversity by preventing further common ownership of daily newspapers and broadcast outlets.[1] Even in 1975, the justification for the prohibition was tenuous at best.

    -- In adopting the ownership ban, the FCC cited *no* evidence of harm from common ownership. Indeed, one FCC staff study in the record showed that newspaper-owned television stations delivered greater quantities of public interest programming than other stations. 1975 2d R&O at 1078 n.26. In that proceeding, the FCC incorrectly focused on "diversity" as an issue only for viewers and listeners rather than on the First Amendment rights of speakers -- that is, newspaper publishers and television station owners.

    -- In affirming the ownership ban in 1978, the U.S. Supreme Court relied upon two cases from the early days of broadcasting, *NBC v. United States*, 319 U.S. 190 (1943), and *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969). From these decisions, the Court concluded that broadcast spectrum remained sufficiently scarce to justify a less rigorous First Amendment analysis of the ownership ban: "The physical limitations of the broadcast spectrum are well known. . . . In light of this physical scarcity, Government allocation and regulation of broadcast frequencies are essential. . . ."[2]

  - Regardless of the legitimacy of the spectrum scarcity rationale in 1943, or even 1975, it is clear today that, due to increased competition and technological advances, the scarcity doctrine has become an anachronistic relic.

    -- In 1969, the year of the *Red Lion* decision, there were 6,647 radio stations and 857 television stations. As of December 31, 2005, there were 13,660 radio stations, 1,750 television stations, 2,737 Class A and low power

---

[1] *Multiple Ownership of Standard, FM, and Television Broadcast Stations, Second Report and Order,* 50 FCC 2d 1046, 1074-75 (1975) ("1975 2d R&O"), *recon.*, 53 FCC 2d 589 (1975), *aff'd sub nom., FCC v. National Citizens Committee for Broadcasting,* 436 U.S. 775 (1978). Ninety-six of the 112 then-existing daily newspaper/ broadcast combinations were grandfathered because the Commission found that "stability and continuity of ownership do serve important public purposes." *Id.* at 1078.

[2] *FCC v. National Citizens Committee for Broadcasting*, 436 U.S. at 799.

television stations, and 675 low power FM stations, not to mention over 8,500 television and radio translators and boosters.

-- Comparable -- and equally dramatic -- increases in cable television service have taken place since 1969. Today, over 85 percent of America's households receive video programming on a subscription basis, either from cable or from entirely new competitive industries such as DBS, OVS, and MMDS (now BRS).

-- The number of programming options has also increased. In 1969, programming was launched by the three television networks -- ABC, CBS, and NBC. Today, consumers have access to at least nine (soon to be eight) television networks and a variety of sources of news and entertainment that could not have been imagined in 1969; hundreds of cable programming networks; VCRs, DVDs, and personal video recorders; wireless PDAs and cell phones; streaming media; iPod downloads; and, of course, the Internet.

-- The following comparison of the media markets in 1943, 1969, 1978, and 2001 dispositively shows the demise of scarcity and, with it, the demise of the premise for the Commission's cross-ownership ban.

Growth in the Media Marketplace

	1943	**1969**	**1978**	**2001**
Daily Newspapers	1,772	1,748	1,745	1,482
AM Radio Stations	931	4,254	4,538	4,727
FM Radio Stations	59	2,393	4,069	8,285
Full Power TV Stations	6	857	988	1,686
Low Power TV Stations	0	0	0	2,212
Cable Subscribers	14,000	3 million	13.7 million	69.0 million
DBS Subscribers	0	0	0	16.1 million
OVS, SMATV, HSD, MMDS (now BRS) Subscribers	0	0	0	3.3 million
Internet Access	0	0	0	72.3%
Broadcast Networks	3	3	3	7 English, 2 Spanish
Cable Networks	0	0	28	231
54+ Channel Cable Systems	0	0	0	2,365

-- In each of Media General's television markets, there are numerous competing media voices. Attachment 2 details the media in each of Media General's television markets.

- **Courts and constitutional scholars no longer accept the scarcity doctrine.**

  - Constitutional analysis is not a static enterprise. The justification of First Amendment burdens must be re-evaluated in light of the sweeping technological and market changes that have occurred since 1943, 1969, and 1978. As the Supreme Court cautioned over thirty years ago, "[b]ecause the broadcast industry is dynamic in terms of technological change, solutions adequate a decade ago are not necessarily so now, and those acceptable today may well be outmoded 10 years hence."[3]

  - More particularly, the Supreme Court has confirmed that changing competitive market conditions could undermine the scarcity rationale, thus requiring a critical review of the *Red Lion* decision. In 1984, the Supreme Court noted:

    > "The prevailing rationale for broadcast regulation based upon spectrum scarcity has come under increasing criticism in recent years . . . . We are not prepared, however, to reconsider our longstanding approach without some signal from Congress or the FCC that technological developments have advanced so far that some revision of the system of broadcast regulation may be required."[4]

  - Congress has provided clear signals that the competitive landscape has changed so dramatically from 1969 that the scarcity rationale for broadcast regulation no longer is viable. The FCC, at various times, has echoed these signals.

    -- Congress has ordered the FCC to grant initial broadcast construction permits through competitive bidding, thus stripping the FCC of the need to evaluate the comparative merits of would-be licensees.

    -- In a 1987 review of the fairness doctrine, the FCC concluded, "[t]he scarcity rationale developed in the *Red Lion* decision and successive cases no longer justifies a different standard of First Amendment review for the electronic press."[5]

    -- As two FCC Commissioners have observed, "The long and short of it is this: as matters now stand, the Commission has unequivocally repudiated spectrum scarcity as a factual matter."[6]

  - The United States Court of Appeals for the District of Columbia Circuit also noted the infirmity of the scarcity rationale in its 1998 remand of *Tribune Co. v. FCC*, 133 F.3d 61, 68 (D.C. Cir. 1998). More importantly, the court indicated

---

[3] *See CBS v. Democratic Nat'l Comm'n*, 412 U.S. 94, 102 (1973).
[4] *FCC v. League of Women Voters of Calif.*, 468 U.S. 364, 376-77 n.11 (1984).
[5] *Syracuse Peace Council*, 2 FCC Rcd 5043, 5053 (1987).
[6] Joint Statement of Commissioners Furchtgott-Roth and Powell, *Personal Attack and Political Editorial Rules*, FCC Gen. Docket No. 83-484, 13 FCC Rcd 21929, 21940 (1998).

that, if the FCC were to receive a rulemaking petition calling for the elimination of the newspaper/broadcast rule, the agency would be "arbitrary and capricious if it refused to consider [the rule] in light of persuasive evidence that the scarcity rationale is no longer tenable." As noted above, the FCC received such petitions from the NAA in 1997 and 1999, but the agency did not commence a rulemaking proceeding until the fall of 2001. The FCC then refused to act on the record it compiled on the rule and instead initiated an omnibus rulemaking on all media ownership rules, seeking comment yet again on the newspaper/broadcast cross-ownership rule.

- The United States Court of Appeals for the District of Columbia Circuit in both *Fox* and *Sinclair* again implicitly invited the FCC to decide the spectrum scarcity issue once and for all:

  -- *Fox*: "[T]his court is not in a position to reject the scarcity rationale even if we agree that it no longer makes sense." (*Fox Television Stations, Inc. v. FCC*, 280 F.3d at 1246.)

  -- *Sinclair:* "Sinclair fails to acknowledge that the scarcity rationale adopted by the Supreme Court in *National Broadcasting Co. v. FCC*, . . . *Red Lion Broadcasting Co. v. FCC*, . . . is both at issue in television broadcasting and binding on this court . . . . In *FCC v. League of Women Voters*, . . . the Supreme Court stated: 'We are not prepared . . . to reconsider our long-standing [scarcity rationale] without some signal from Congress or the [Commission] that technological developments have advanced so far that some revision of the system of broadcast regulation may be required.' Absent such signals, the Court has refused to abandon the scarcity rationale." (*Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d at 161-62 (citations omitted).)

- In another context, a member of the same court has questioned the scarcity rationale: "In short, neither technological nor economic scarcity distinguish broadcast from other media." *Action for Children's Television v. FCC*, 58 F.3d 654, 676 (D.C. Cir. 1995) (Edwards, C.J., dissenting), *cert. denied*, 516 U.S. 1043 (1996).

- In a lengthy and thorough report released as an FCC "Media Bureau Staff Research Paper" in March 2005, an FCC staff attorney has concluded that the scarcity rationale is no longer valid as a tool of broadcast regulation. *See* John W. Berresford, "The Scarcity Rationale for Regulating Traditional Broadcasting: An Idea Whose Time Has Passed," *FCC Media Bureau Staff Research Paper, 2005-2*, March 2005.

- An acknowledgement from the Commission that market forces and technological advances have overtaken the scarcity doctrine is long overdue.

A Judicial Timeline		
1943	*NBC v. United States*	The "unique characteristic" of radio justifies federal regulation of broadcast industry
1969	*Red Lion Broadcasting Co. v. FCC*	Spectrum scarcity justifies less rigorous First Amendment scrutiny of broadcast regulations
1978	*FCC v. National Citizens Committee for Broadcasting*	Spectrum scarcity and similar multiple ownership restrictions on broadcasters justify newspaper/broadcast cross-ownership rule
1984	*FCC v. League of Women Voters of Calif.*	Changing competitive market conditions could undermine the scarcity rationale, thus requiring a critical review of *Red Lion*
1987	*Syracuse Peace Council*	FCC abandons scarcity rationale
1998	*Tribune Co. v. FCC*	Court of Appeals suggests that FCC is obligated to reconsider scarcity rationale
2002	*Fox Television Stations, Inc. v. FCC; Sinclair Broadcast Group, Inc. v. FCC*	Court of Appeals implicitly invites FCC to repudiate scarcity rationale

➢ **Equal Protection Considerations Also Require Significant Relaxation, If Not Repeal, of the Cross-Ownership Rule.**

- The Equal Protection Clause of the U.S. Constitution requires a rational basis for the differing treatment of substantially similar groups.[7] In this case, however, there is simply no rational basis to single out broadcasters among the many players in the media industry and deny them the opportunity to own in-market daily newspapers or to single out newspaper publishers and deny them the opportunity to own in-market broadcast stations.

  -- Broadcasters no longer are the sole or even the dominant providers of video programming. Other well established players in the video services market, such as cable, DBS, and telephone companies, may own in-market newspapers. Moreover, broadcast television stations are viewed by the public no differently than the providers of other video channels. With the advent of streaming media and new wireless delivery modes, both television and radio face a new competitive threat from ubiquitous Internet sites and programmers transmitting over cellular telephones.

  -- Daily newspaper publishers no longer are the sole providers of local news. Virtually every consumer in the country has access -- for little or no cost -- to weekly newspapers, national newspapers, ethnic and other specialty newspapers, national magazines, numerous 24-hour cable news networks, and countless other media via the Internet. All of these competitors may own local broadcast stations.

[7] *See, e.g., Police Department of the City of Chicago v. Mosley*, 408 U.S. 92 (1972).

- -- The Commission repeatedly has recognized the public interest benefits of joint ownership of local media outlets, and it correctly has concluded that these benefits "can outweigh any cost to diversity and competition. . . ."[8] For these reasons, the Commission has relaxed its rules to permit television duopolies as well as same-market radio/television combinations.

- -- In addition, the United States Court of Appeals for the District of Columbia Circuit vacated the FCC's cable/television cross-ownership rule, *Fox Television Stations, Inc. v. FCC*, 280 F.3d at 1052-53, and the FCC chose not to reinstate it.

- -- The Commission has recognized local daily newspapers as independent "media voices" equivalent to local broadcast stations for purposes of its radio/ television cross-ownership rule, while refusing to recognize local newspapers as equivalent to broadcast stations with respect to cross-ownership.

- The sweeping changes that have occurred since the Supreme Court's 1978 consideration of the equal protection implications of the cross-ownership rule undermine the factual basis for the Court's affirmation of the rule, thus requiring significant relaxation, if not total repeal, of the rule on equal protection grounds.

    - -- When the Supreme Court looked at the equal protection issue in 1978, it found that the ownership ban "treated newspaper owners in essentially the same fashion as other owners of the major media of mass communications . . . under the Commission's multiple-ownership rules."[9] Finding that owners of radio stations and television stations were similarly limited in their ability to acquire additional in-market broadcast outlets, the Court denied newspaper owners' equal protection claims.

    - -- In the almost 28 years since the Court's decision, however, the FCC's other cross-ownership rules have been eliminated or loosened substantially. Today, daily newspapers and broadcast station owners are completely alone among major information providers in facing an absolute bar to common ownership. Meanwhile, the evidentiary basis for rejecting the prior equal protection challenge to the rule has been eliminated.

- The Commission has recognized the unique -- "special" -- role that television stations play in their local markets, while also permitting combinations of these special voices with other same-market television and radio stations. It is therefore indefensible and illogical to permit combinations of television stations while refusing to allow some form of newspaper/broadcast combinations.

[8] *Review of the Commission's Regulations Governing Television Broadcasting, Report and Order*, 14 FCC Rcd 12903, 12930 (1999), *recon.*, 16 FCC Rcd 1067 (2001).
[9] *National Citizens Committee for Broadcasting*, 436 U.S. at 801.

- **Not only is a restriction on newspaper/broadcast cross-ownership not "necessary in the public interest," it actually stifles innovation; the public interest in fact requires significant relaxation, if not the complete elimination, of such restrictions.**

  - It is clear from the foregoing that a ban on newspaper/broadcast cross-ownership cannot be justified as "necessary in the public interest." It therefore must be completely repealed in accordance with the mandate of the 1996 Telecommunications Act.

  - Because the cross-ownership ban threatens convergence, it stifles innovation and inhibits the delivery of quality local television news to communities, large and small, across the nation. For this reason, significant relaxation, if not elimination, of the restriction on newspaper/broadcast cross-ownership is required in the public interest.

  - Such reform will allow companies like Media General to expand their convergence efforts. As Media General's experience has shown, convergence allows more resources to be put into local news coverage, production, and delivery. The result is greater quantities and higher quality of local news and public affairs programming, increases in news staff, and more locally produced non-news programming. Such changes clearly advance the public interest.

ATTACHMENT 1

SELECTED PRESS ACCOUNTS OF CURTAILMENTS IN LOCAL TELEVISION NEWSCASTS

NOVEMBER 1998 THROUGH JANUARY 2003

Market	Station	Decision	Source
Anchorage, AK	KTVA (CBS)	Announced in April 2000 that it would eliminate noon newscasts.	11
Austin, TX	KEYE-TV (CBS)	Cancelled noon newscast in December 2002 and replaced it with game show.	36
Binghamton, NY	WIVT (ABC)	Cancelled locally produced morning news show in June 2002, and replaced it with regionally produced morning news show.	34
Boston, MA	WSBK (UPN)	Cancelled early evening newscasts in 1998, leaving only a 10 p.m. newscast, which is rebroadcast from WBZ-TV (CBS).	2
Boston, MA	WMUR-TV (ABC)	Cancelled 9 a.m. and 4 p.m. newscasts in May 2001.	19
Charlotte, NC	WBTV (CBS)	Cancelled 6:30 p.m. newscast in September 2001.	22
Chattanooga, TN	WDSI (Fox)	Cancelled morning and noon newscasts and added 4 p.m. newscast in January 2001.	15
Chattanooga, TN	WTVC-TV (ABC)	Cancelled weekend morning newscasts in February 2001.	16
Chicago, IL	WBBM-TV (CBS)	Cancelled one hour 6 p.m. newscast in early 1999. Replaced it with a half hour 4:30 p.m. newscast, which thereafter was cancelled in July 2000. Cancelled Saturday morning newscasts in December 1998.	3, 8
Cleveland, OH	WUAB (IND)	Cancelled 11:30 a.m. newscast in January 1999.	4
Cleveland, OH	WEWS (ABC)	Cancelled 5 a.m. newscast in June 1999.	6
Detroit, MI	WKBD (UPN)	Cancelled local 10 p.m. newscast in November 2002 and replaced with one produced by other station in market.	35
Detroit, MI	WWJ-TV (CBS)	Cancelled 11 p.m. half hour local newscast in November 2002.	35
Duluth, MN	KDLH (CBS)	Cancelled noon newscast in November 1998.	1
Evansville, IN	WEVV (CBS)	Cancelled local newscasts in late 2001	29
Green Bay, WI	WLUK-TV (Fox)	Cancelled 10 p.m. newscast in March 2001.	17
Greensboro, NC	WXLV-TV	Cancelled morning and weekend	13

Market	Station	Decision	Source
		newscasts in late 2000.	
Greensboro/ Winston/Salem, NC	WXLV-TV (ABC)	Cancelled local newscasts in January 2002	27
Hattiesburg, MS	WHLT-TV (CBS)	Cancelled all newscasts and eliminated news department in May 2001.	18
Jacksonville, FL	WJXX (ABC)	Cancelled all locally produced newscasts in January 2000; now re-broadcasts newscasts from WTLV-TV (NBC).	10
Kingsport, TN	WKPT (ABC)	Announced in February 2002 that it would cancel locally produced weekday newscasts and brief updates and replace them with re-broadcast newscasts from WJHL-TV (CBS), Johnson City, TN.	28
Los Angeles, CA	KCBS (CBS)	Cancelled 4 p.m. newscast in 2001.	21
Los Angeles, CA	KCOP (UPN)	Announced in July 1999 that it would cancel 7:30 p.m. newscast.	7
Marquette, MI	WBUP WBKP (ABC)	Cancelled local newscast in March 2002	31
Miami, FL	WAMI-TV (IND)	Cancelled only newscast and eliminated news department in December 2000.	14
Miami, FL	WTVJ (NBC)	In February 2002, cancelled midmorning newscast and added 4:00 p.m. newscast, which was subsequently cancelled.	26
Minneapolis. MN	KSTC-TV (IND)	Cancelled both weekday morning and 6:30 p.m. newscasts in October 2001.	23
Minneapolis, MN	KSTP (ABC)	Cancelled morning weekend newscasts in October 2001.	23
New York, NY	WCBS-TV	Cancelled 4:00 p.m. newscast in January 2002	25
Odessa/ Midland, TX	KOSA-TV (CBS)	Cancelled morning newscasts in November 1998.	1
Orlando, FL	WESH (NBC)	Eliminated 4:30 p.m. newscast in April 2000.	9
Phoenix, AZ	KPHO-TV	Announced in December 2000 it would cancel 4:30 a.m. newscast.	37
Raleigh/ Durham, NC	WKFT (IND)	Cancelled hourly local news briefs in December 2002.	32
Sacramento, CA	KMAX-TV (UPN)	Cancelled evening newscast in 1998.	2
San Antonio, TX	KVDA-TV (Telemundo)	Cancelled morning and 5 p.m. newscasts in July 2001.	20
Seattle, WA	KSTW(TV) (UPN)	Cancelled all newscasts and eliminated news department in December 1998.	2
St. Louis, MO	KDNL-TV	Cancelled all newscasts and eliminated	24

Market	Station	Decision	Source
	(ABC)	news department in September 2001.	
Tallahassee, FL	WTWC (NBC)	Cancelled all newscasts and eliminated news department in November 2000.	24
Tampa, FL	WTOG (UPN)	Cancelled 10 p.m. newscast and eliminated news department in 1998.	5
Topeka, KS	KTKA-TV (ABC)	Cancelled all four local newscasts in April 2002.	33
Twin Falls, ID	KMVT (CBS)	Announced in February 2002 that it would cancel 5:00 p.m. newscast	30
Utica, NY	WUTR(TV) (ABC)	Cancelled locally produced morning news show in June 2002, and replaced it with regionally produced morning news show.	34
Washington, DC	WUSA (CBS)	Cancelled 90 minutes of evening newscasts, added 9 a.m. newscast, in September 2000.	12
Watertown, NY	WWTI(TV) (IND)	Cancelled locally produced morning news show in June 2002, and replaced it with regionally produced morning news show.	34

KEY TO SOURCES

Source	News Article
1	"Benedek Slashes Costs, Staffs," *Electronic Media*, Nov. 16, 1998 at 1; interview with station news staff, February 13, 2003.
2	Monica Collins, "Clickers of Sweeps and Cable Rates," *The Boston Herald*, Nov. 15, 1998 at 5.
3	Dan Trigoboff, "A Day of Rest. WGN Cancels Saturday Morning Newscast," *Broadcasting & Cable*, Dec. 21, 1998 at 28.
4	Roger Brown, "Poor Ratings Sink Channel 43 Midday Newscast," *The Plain Dealer*, Dec. 22, 1998 at 4E.
5	Eric Deggans, "WTTA Might Add Late-Night News," *St. Petersburg Times*, Mar. 18, 1999 at 2B.
6	Tom Feran, "Wenz Hires Sommers To Do Midday Show," *The Plain Dealer*, June 9, 1999 at 2E.
7	Cynthia Littleton, "KCOP Dropping Newscast," *Daily Variety*, July 12, 1999 at 5.
8	Phil Rosenthal, "More Bad News for Ch. 2," *Chicago Sun-Times*, Aug. 16, 2000, at 57.
9	"Chatter," *The Stuart News/Port St. Lucie News*, Apr. 16, 2000 at P6.
10	Eileen Davis Hudson, "Market Profile, " *Mediaweek*, May 15, 2000; interview with station news staff, February 13, 2003.
11	"Inside Alaska Business," *Anchorage Daily News*, Apr. 20, 2000 at 1E.
12	"Local Media," *Mediaweek*, Oct. 2, 2000.
13	Jeremy Murphy, "Local Media—Los Angeles Radio Stations: ESPN Radio Picks Up Biggest Affiliate," *Mediaweek*, Nov. 27, 2000.
14	Dan Trigoboff, "Station Break," *Broadcasting & Cable*, Dec. 11, 2000 at 33.
15	Barry Courter, "Fox 61 Moves To Be First With News," *Chattanooga Times/Chattanooga Free Press*, Jan. 21, 2001 at B1.
16	Barry Courter, "Public Gives Locher A Boost," *Chattanooga Times/Chattanooga Free Press*, Feb. 9, 2001 at H5.
17	Tim Cuprisin, "Green Bay Fox Station Cancels 10 p.m. News," *Milwaukee Journal Sentinel*, Mar. 8, 2001 at 8B.
18	Kathryn S. Wenner, "News Blackout," *American Journalism Review*, May 2001, at 12.
19	Denis Paiste, "'Chronicle' Coming to WMUR," *The Union Leader (Manchester NH)*, May 30, 2001 at A2.
20	"News roundup," *San Antonio Express-News*, July 4, 2001 at 2B.
21	Dan Trigoboff, "Station Break," *Broadcasting & Cable*, Aug. 6, 2001 at 26.
22	Mark Washburn, "WBTV Replaces News Director to Boost Ratings," *The Charlotte Observer*, Aug. 14, 2001 at 1D.
23	Jeremy Murphy, "Local Media TV Stations," *Mediaweek*, Nov. 5, 2001; interview with station news staff, February 13, 2003.
24	Dan Trigoboff, "KDNL's St. Louis Blues; KDNL Television in St. Louis, Missouri, Axes News Department," *Broadcasting & Cable*, Oct. 8, 2001 at 22.
25	Chris Pursell, "Stations Scrambling to Slot New Strips," *Electronic Media*, Dec. 31, 2001 at 3.

KEY TO SOURCES

26	Tom Jicha, “WTVJ Shifts Newscasts to Late Afternoon,” *Sun-Sentinel (Fort Lauderdale, FL)*, Feb. 6, 2002 at 3E; interview with station news staff, Feb. 11, 2003.
27	Dan Trigoboff, “Station Break,” *Broadcasting & Cable*, Jan 7, 2002 at 40.
28	Dan Trigoboff, “Station Break,” *Broadcasting & Cable*, Jan. 21, 2002 at 36; interview with station news staff, February 13, 2003.
29	Michael Schneider, “Local Newscasts Fall Victim to Cost Cuts,” *Variety*, Jan. 28-Feb. 8, 202 at 21.
30	Lorraine Cavener, “Twin Falls, Idaho, TV Station Drops Early-Evening Newscast,” *Times-News*, Feb. 2, 2002.
31	Associated Press, “Upper Peninsula Television Station Cancels Local News,” *Associated Press*, March 29, 2002.
32	Business North Carolina, “WKFT, Eastern, Eliminates Local News Segment,” *Business North Carolina*, March 1, 2002.
33	Kansas City Star, “Station Drops Local News,” *Kansas City Star*, April 24, 2002; Dan Trigoboff, “The News Not Out of Topeka,” *Broadcasting & Cable*, April 22, 2002.
34	William LaRue, “Clear Channel Consolidating Some Staff,” *The Post-Standard*, July 6, 2002.
35	John Smyntek, “Channel 50’s Exodus Aids Channel 7’s News,” *Detroit Free Press*, December 4, 2002; Dan Trigoboff, “CBS Drops News in Detroit,” *Broadcasting & Cable*, November 25, 2002.
36	Austin Business Journal, December 2, 2002, *available at* www.bizjournals.com/austin/stories/2002/12/02/daily8.html (last checked July 6, 2005).
37	The Business Journal, Phoenix, December 29, 2000, *available at* www.bizjournals.com/phoenix/stories/2001/01/01/newscolumn2.html (last checked July 6, 2005).

Attachment 2: Independent Voices in Media General Television Markets

Nielsen Designated Market Area		Media General Television Station	Media in Market: Independent Owners Per 47 C.F.R. § 73.3555(c)(3)			Penetration/Use Rates		
			TV[1]	Radio[2]	Newspaper[3]	Total Cable[4]	Total ADS[4]	Internet[5]
13	*Tampa, FL	WFLA-TV	14	24	4	75.9	12.2	57.70
35	Greenville-Spartanburg, SC/ Asheville-Anderson, NC	WSPA-TV WNEG-TV** WASV-TV	8	24	3	58.0	25.2	55.10-NC 52.40-SC 56.25-GA
40	Birmingham, AL	WIAT(TV)	11	29	2	66.9	19.8	53.15
52	Jacksonville, FL	WJWB(TV)	10	17	1	71.1	15.5	57.70
63	Mobile, AL – Pensacola, FL	WKRG-TV	12	15	3	73.9	14.5	53.15-AL 57.70-FL
64	Lexington, KY	WTVQ-TV	7	15	2	63.7	24.3	56.60
66	Wichita-Hutchinson, KS	KWCH-TV KBSH-TV** KBSD-TV** KBSL-TV**	6	14	2	69.2	15.6	63.75-KS 64.75-NE
67	*Roanoke-Lynchburg, VA	WSLS-TV	7	22	2	61.9	24.5	63.60-VA 51.50-WV
86	Chattanooga, TN	WDEF-TV	8	25	2	66.3	22.8	55.80-TN 56.25-GA
89	*Tri-Cities, TN-VA	WJHL-TV	6	26	4	72.7	18.1	63.60-VA 55.80-TN
91	Jackson, MS	WJTV(TV)	6	16	1	58.9	27.4	42.60
98	Savannah, GA	WSAV-TV	7	9	2	69.7	19.9	56.25-GA 52.40-SC
101	Charleston, SC	WCBD-TV	5	16	1	69.1	14.2	52.40
105	Greenville-*et al.*, NC	WNCT-TV	6	23	1	63.9	19.7	55.10
108	*Myrtle Beach-Florence, SC	WBTW(TV)	6	8	3	71.3	17.5	52.40-SC 55.10-NC
115	Augusta, GA	WJBF-TV	6	16	2	70.1	15.9	56.25-GA 52.40-SC
125	*Columbus, GA	WRBL(TV)	7	9	2	75.4	13.9	56.25-GA 53.15-AL
153	Rochester, MN -Mason City, IA-Austin, MN	KIMT(TV)	6	6	3	66.6	17.1	63.50-IA 68.95-MN
160	*Panama City, FL	WMBB(TV)	6	7	1	66.8	22.9	57.70
168	Hattiesburg-Laurel, MS	WHLT(TV)**	2	9	2	49.5	32.7	42.60
176	Alexandria, LA	KALB-TV	3	15	1	68.6	21.0	49.95

* Convergence Markets (The data for TV, Radio and Newspaper owners for the Media General six convergence markets are reported as of 2002. The data for the other Media General markets are as of 2000.)
** Satellite Station

1 *Broadcasting and Cable Yearbook 2002-2003 and 2000.*
2 *Broadcasting and Cable Yearbook 2002-2003 and 2000*; BIA Investing in Radio, *Radio Market Report 2002 and 2000*.
3 *2001 Editor and Publisher International Yearbook*, 2000 SDRS Circulation.
4 Nielsen, DMA Household Universe Estimates, February 2003, Cable & Cable Plus ADS Households and Alternate Delivery System & Satellite Households.
5 A Nation Online: Entering the Broadband Age, National Telecommunications and Information Administration, September 2004, Appendix Table 3, Internet Use by Percent of State Population (figures are the mid-point of the reported range).

STUDIES/FACTUAL EVIDENCE IN
OMNIBUS MEDIA OWNERSHIP DOCKET
THAT SUPPORT COMPLETE ELIMINATION OF
THE NEWSPAPER/BROADCAST CROSS-OWNERSHIP RULE

I. “Diversity”/Localism

A. Specifically Directed to Newspaper/Broadcast Cross-Ownership

1. *FCC Staff Study of 1973 Television Station Annual Programming Report, Second Report and Order*, 50 FCC 2d at 1078 n.26 and Appendix C.

2. *Non-Entertainment Programming Study,* Appendix A to Comments of A.H. Belo Corporation in MM Docket No. 98-35, filed Jul. 21, 1998.

3. D. Pritchard, *A Tale of Three Cities: “Diverse and Antagonistic” Information in Situations of Newspaper/Broadcast Cross-Ownership*, 54 FED. COM. L.J. 31 (Dec. 2001).

4. S.R. Lichter, Ph.D., *Review of the Increases in Non-Entertainment Programming Provided in Markets with Newspaper-Owned Non-Entertainment Programming Provided in Markets with Newspaper-Owned Television Stations*, Appendix 5 to Media General Comments in MM Docket Nos. 01-235 and 96-197, filed Dec. 3, 2002.

5. J.K. Gentry, Ph.D., *The Public Benefits Achievable from Eliminating the FCC’s Newspaper/Broadcast Cross-Ownership Rule*, Dec. 2001, Appendix 4 to Media General Comments in MM Docket Nos. 01-235 and 96-197, filed Dec. 3, 2001.

6. Media General’s review of broadcast, print, cable, wireless cable, DBS, and Internet sites available in each of its convergence markets. Appendices 9-14 to Media General Comments in MM Docket Nos. 01-235 and 96-197, filed Dec. 3, 2002, and Appendices 9-14 to Media General Comments in MB Docket Nos. 2-277, *et al.*, filed Jan. 2, 2003.

7. D. Pritchard, *Viewpoint Diversity in Cross-Owned Newspapers and Television Stations: A Study of News Coverage of the 2000 Presidential Campaign,* FCC Media Ownership Working Group, 2002-2, Sept. 2002.

8. T.C. Spavins, *et al.*, *The Measurement of Local Television News and Public Affairs*, undated (FCC-commissioned study released Oct. 1, 2002).

9. J.K. Gentry, Ph.D., *Statement*, Appendix 3 to Media General Comments in MB Docket Nos. 02-277, *et al.*, filed Jan. 2, 2003.

10. *Selected Press Accounts of Cutbacks in Local Television Newscasts: November 1998 through October 2002*, Attachment B to Appendix 3 to Media General Comments in MB Docket Nos. 02-277, *et al.*, filed Jan. 2, 2003.

11. Statement of Robert W. Decherd, Chairman of the Board, President and Chief Executive Officer, Belo Corporation, attached to Comments of A.H. Belo Corporation in MB Docket Nos. 02-277, *et al.*, filed Jan. 2, 2003.

12. Statement of J. Stewart Bryan, III, Chairman of the Board and Chief Executive Officer, Media General, Inc., Appendix C to Media General Reply Comments in MB Docket Nos. 02-277, *et al.*, filed Feb. 3, 2003.

13. Media General's evidence of increased provision of local news and information at each of its co-owned convergence properties and evidence of increased staffing at all but one of its convergence TV stations. Employment held constant at exception. Section II.A. in Media General Reply Comments in MB Docket Nos. 02-277, *et al.*, filed Jan. 2, 2003.

14. Media General's letters from non-profit community groups, noting convergence has helped them spread their messages more effectively. Appendix A to Media General Comments in MB Docket Nos. 02-277, *et al*., filed Feb. 3, 2003.

15. Columbia University School of Journalism, Project for Excellence in Journalism, *Does Ownership Matter in Local Television News: A Five-Year Study of Ownership and Quality*, Feb. 17, 2003, e*x parte* submission in MB Docket Nos. 02-277, *et al.*, filed Feb 26, 2003.

16. J. Hausman, *Statement of Jerry A. Hausman*, undated, Exhibit 2 to Media General Letter to Commissioner Kathleen Q. Abernathy, Apr. 22, 2003.

17. J. Rosse, *Critique of "Consumer Substitution Among the Media*," Apr. 16, 2003, Exhibit 1 to Media General Letter to Commissioner Kathleen Q. Abernathy, Apr. 22, 2003.

18. Discussion of Nielsen Consumer Survey in Media General Letter to Commissioner Kathleen Q. Abernathy, April 22, 2003.

B. Related and Supportive

1. S.T. Berry and J. Waldfogel, *Do Mergers Increase Product Variety? Evidence from Radio Broadcasting*, 66 THE QUARTERLY J. OF ECONOMICS 1009 (Aug. 2001).

2. *Selected Media "Voices" by Designated Market Area*, Exhibit 1 to Comments of Hearst-Argyle Television, Inc. in MM Docket Nos. 01-235 and 96-196, filed Dec. 3, 2001.

3. Media General's evidence of locally originated cable programming available in its convergence markets. Section II.B. and Appendix B in Media General Reply Comments in MB Docket Nos. 02-277, *et al.*, filed Jan. 2, 2003.

4. D. Pritchard, *The Expansion of Diversity: A Longitudinal Study of Local Media Outlets in Five American Communities*, Appendix 5 to Media General Comments in MB Docket Nos. 02-277, *et al.*, filed Jan. 2, 2003.

II. Competition

A. Economists Incorporated, *Structural and Behavioral Analysis of the Newspaper-Broadcast Cross-Ownership Rule, July 1998*, Appendix B to Comments of Newspaper Ass'n of America in MM Docket No. 98-35, filed Jul. 21, 1998.

B. S.M. Besen and D.P. O'Brien, *An Economic Analysis of the Efficiency Benefits from Newspaper-Broadcast Station Cross-Ownership*, July 21, 1998, Exhibit B to Comments of The Chronicle Publishing Co., Inc. in MM Docket No. 98-35, filed Jul. 21, 1998. Also submitted as Exhibit B to Comments of Gannett Co., Inc. in MM Docket No. 98-35, filed Jul. 21, 1998.

C. R.D. Blair, *An Economic Analysis of the Cross-Ownership of WBZL and the Sun Sentinel, July 1, 1998*, attachment to Comments of Tribune Company in MM Docket No. 98-35, filed Jul. 21, 1998.

D. Economists Incorporated, *Horizontal and Vertical Structural Issues and the Newspaper-Broadcast Cross-Ownership Ban*, Appendix IV to Comments of Newspaper Ass'n of America in MM Docket Nos. 01-235 and 96-197, filed Dec. 3, 2001.

E. Economists Incorporated, *Behavioral Analysis of Newspaper-Broadcast Cross-Ownership Rules in Medium and Small Markets*, Appendix A to Media General Reply Comments in MM Docket Nos. 01-235 and 96-197, filed Feb. 15, 2002.

F. C.A. Bush, *On the Substitutability of Local Newspaper, Radio and Television Advertising in Local Business Sales*, Sept. 2002, FCC Media Bureau Staff Research Paper, 2002-10.

III. Internet-Related

A. U.S. Department of Commerce, Economics and Statistics Administration, National Telecommunications and Information Administration, *A Nation Online: How Americans Are Expanding Their Use of the Internet*, Feb. 2002, available at http://www.ntia.doc.gov/ntiahome/dn/html/anationonline2.htm (last visited May 1, 2003).

B. J.B. Harrigan, *Getting Serious Online*, Pew Internet & American Life Project, at 3, 15 (March 3, 2002), available at http://www.pewinternet.org/reports/toc.asp?Report=55 (last visited Apr. 30, 2003).

C. Pew Research Center for the People and the Press, *Internet Sapping Broadcast News Audience*, available at http://people-press.org/reports/display.php3?ReportID=36 (last visited Apr. 30, 2003).

D. *Surveying the Digital Future -- Year Three*, UCLA Center for Communications Policy, Feb. 2003, available at http://www.ccp.ucla.edu/pages/internet-report.asp (last visited May 1, 2003).

HORIZONTAL AND VERTICAL STRUCTURAL ISSUES AND THE NEWSPAPER-BROADCAST CROSS-OWNERSHIP BAN

Economists Incorporated

December 2001

Introduction and Summary

This paper explores structural indicators of competition in a sample of locales. There has been a considerable increase in the amount of competition since the newspaper-broadcast cross-ownership prohibition was adopted in 1975. Even if a national policy prohibiting cross-ownership were justified based on competition concerns in 1975, that justification would not hold today, especially because individual transactions are already subject to case-by-case review under the Clayton Act.

The Federal Communications Commission focuses on competition among newspapers, television and radio to sell advertising. This focus is overly narrow because it excludes other relevant competing media, but it is adopted here to investigate changes in the ownership concentration of advertising in these three media in a sample of 21 Designated Market Areas (DMAs) between 1975 and 2000. Ownership concentration has decreased or remained unchanged in 20 of the 21 DMAs examined, despite acquisitions of radio stations permitted following the passage of the Telecommunications Act of 1996.

Newspapers and broadcast stations may improve their news product and realize cost efficiencies through sharing of news leads, sources, personnel and operations in various forms. Economic theory finds that the types of cooperation that appear most likely may not be undertaken, or undertaken only at greater cost, if a cross-ownership ban prevents newspapers and broadcast stations from being brought under common ownership.

Competition in Advertising[1]

An important step in assessing the potential competitive effect of joint ownership is to define a relevant market. For a merger or acquisition to affect market concentration, it is necessary that both firms involved in the acquisition participate in the same market. Thus, for example, common ownership of a newspaper, television station or radio station with a dry cleaning firm would have no effect on either concentration or single firm market share because dry cleaning does not participate in any market in which any of the three media outlets competes.

The Commission has identified advertising as the primary economic market in which newspapers and broadcast stations may compete.[2] There can be no competitive rationale for the cross-ownership rule unless the relevant product market is at least this broad. The Commission acknowledges that cable television also competes in this advertising market.[3] Newspapers other than daily newspapers, direct mail, yellow pages, and outdoor advertising are other media that compete with newspaper, radio and television advertising. This paper,

[1] This section provides an update of findings previously reported in " Structural and Behavioral Analysis of the Newspaper-Broadcast Cross-Ownership Rules," Economists Incorporated, July 1998, attached as Appendix B to the Newspaper Association of America' s (NAA) comments in In the Matter of 1998 Biennial Regulatory Review—Review of the Commission' s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, MM Docket No. 98-35, (released March 13, 1998) (" 1998 Biennial Review"). Previously reported numbers for 1975 and 1997 are not directly comparable to the numbers in this paper, due to changes in the geographic coverage of some DMAs, increased availability of revenue estimates for broadcast stations, and the correction of some minor data errors.

[2] In the Matter of Cross-Ownership of Broadcast Stations and Newspapers; Newspaper/Radio Cross-Ownership Waiver Policy, MM Docket Nos. 01-235, 96-197, FCC 01-262 (released September 20, 2001 (" NPRM"), ¶19.

[3] 1998 Biennial Review, ¶5.

however, will focus only on those media that are the subject of the cross-ownership ban. Excluding other relevant media from the study makes it possible to examine structural changes in concentration among the three media that are the subject of the cross-ownership rule. Note that this narrow focus has the effect of significantly overstating the level of concentration measured in local markets.

Competition takes place within a certain geographic context. Precisely defining the relevant geographic market in which these media compete is a task beyond the scope of this paper. For purposes of year-to-year comparisons, the relevant geographic markets are proxied by Designated Market Areas (DMAs). DMAs are defined by Nielsen Media Research for purposes of measuring television audience information, and thus are a likely candidate for the appropriate market for television advertising. Newspapers and radio stations located within the same DMA can be viewed as among the alternative means of reaching an advertising audience within the DMA. Since an important objective of this study was to compare concentration levels across time, a precisely correct definition of the geographic market is less important than maintaining consistent geographic market definitions across time. Accordingly, the geographic area defined to be within each DMA in 2001 was applied to 1975, even though that area differed in some instances from the area included in those DMAs as they were defined in 1975.

Due to the high cost of manually extracting and assembling 1975 data from printed sources, the analysis of structural change between 1975 and 2000 was limited to a sample of 21 DMAs. In a previous paper,[4] 21 DMAs were chosen at random from among each ten consecutively ranked DMAs. Thus, for instance, Chicago (rank 3) was chosen from the DMAs ranked 1-10, Phoenix (rank 17) was

---

[4] See footnote 1.

chosen from the DMAs ranked 11-20, etc.[5] This study utilizes the same DMAs studied in the previous paper. Table 1 shows the DMAs included in the sample as well as their 1997 and 2001 market ranks. The sample DMAs appear to match the entire population of DMAs quite well.[6]

Procedures for estimating the advertising revenues of individual newspapers, radio station and television stations were constrained by the information available both for 2000 and for 1975. For 2000, estimates are available for the advertising revenues of many individual commercial radio and television stations as well as many newspapers. The information available in 1975 was limited to the number of commercial radio stations and television stations and the number and circulation of daily newspapers.

Lacking revenue information for individual radio and television stations in 1975, it was not possible to determine how concentration of advertising revenue among these stations changed between 1975 and 2000. For these media, the main structural change that could be observed was the growth in the number of stations. The number of commercial radio stations increased in all of the sample

---

[5] The lowest ranked 11 DMAs were treated like a group of ten.

[6] The table below compares the average (mean) and median for variables related to DMA size and number of media. Data were derived from BIA, Inc.; *Federal Communications Commission News,* " Broadcast Station Totals as of September 30, 2001," October 30, 2001; Newspaper Association of America, *2001 Newspaper Facts;* and the number of DMAs in 2001 (210).

	Average		*Median*	
	Sample	All DMAs	Sample	All DMAs
Population (2000, thous.)	1,343	1,282	661	658
Effective Buying Income (1999, $ mil.)	23,487	22,681	10,476	10,082
Number of Commercial Radio Stations	51.1	51.3	40	n.a.
Number of Commercial TV Stations	6.1	6.2	5	n.a.
Number of Daily Newspapers	6.1	7.0	5	n.a.

DMAs. The median number of radio stations in the sample DMAs increased by 17, from 23 stations in 1975 to 40 stations in 2000. See Table 2. The number of commercial television stations also increased in all of the sample DMAs except two DMAs in which the number was unchanged. The median number of commercial television stations increased from three in 1975 to five in 2000, an increase of two stations. An increase in the number of separately owned radio and television stations, holding other factors constant, decreases the overall concentration in the advertising market.

The increase in stations within the sample DMAs is consistent with national trends. In 1975, there were 7,230 commercial radio stations; by 2001, this has increased almost 50 percent to 10,778 stations.[7] The number of commercial television stations on air increased from 706 in 1975 to 1,309 in 2001, an increase of over 80 percent.[8]

Separate estimates were available from BIA for total radio and television advertising in each DMA in 2000.[9] From these totals, the average advertising revenue for each radio and television station in each sample DMA was calculated. To express the relative importance of radio stations and television stations as sellers of advertising in 1975 and 2000, the average advertising revenue for each radio station and each television station in each DMA in 2000 was applied to stations in 1975.[10] This assumption made it possible to include radio and television stations in the calculation of an HHI for each DMA in 1975 and 2000.[11]

---

[7] *Statistical Abstract of the United States: 1990,* Table 914; and *Federal Communications Commission News,* " Broadcast Station Totals as of September 30, 2001," October 30, 2001.

[8] *Television & Cable Factbook: Services 2001,* Table I-45.

[9] Data on radio and television stations in the 21 DMAs were supplied by BIA, Inc. from existing databases as a special report to Economists Incorporated.

[10] The underlying assumption is that the ratio of average radio station revenue to average television station revenue in each DMA was approximately the same in 1975 and in 2000. No

As with radio and television stations, no estimate of newspaper advertising revenues was available for 1975. However, circulation information was available for both 1975 and 2000. Changes in relative circulation size among newspapers in a DMA can give some indication of the changes in their relative shares of advertising revenues. An HHI based on total weekly circulation was used to summarize newspapers' relative circulation size. The median circulation HHI in the sample DMAs decreased by about 573 points from approximately 7,113 to approximately 6,540.[12] See Table 3. Over the 21 sample DMAs, weekly circulation became less concentrated in 14 DMAs, became more concentrated in five DMAs, and was unchanged in two DMAs.

Table 3 also shows how the number of daily newspapers changed between 1975 and 2000. The number of daily newspapers increased in six DMAs, was unchanged in ten DMAs, and fell in five DMAs. The net effect across all the sample DMAs was to decrease the number of daily newspapers by four newspapers, or about 3 percent. This contrasts somewhat with the national trend over the same period, in which the number of daily newspapers fell by about 16 percent.[13]

Calculation of the overall concentration of advertising revenues among the three media in each DMA requires that each newspaper be assigned some revenue value, as was required for radio and television stations. The following procedure

---

information was available on average station revenues in each DMA in 1975, but national station averages support this assumption.

[11] The HHI, or Herfindahl-Hirshman Index, is calculated as the sum of the squared shares of all participants.

[12] The decrease in concentration may be overstated slightly; there were a number of newspapers in 1975 for which circulation was not available and which were treated as zeros. A similar pattern emerges looking only at the eight DMAs for which there was no missing circulation data. Among these DMAs, median circulation HHI fell by 1,184 from 8,487 to 7,303.

[13] *2001 Facts About Newspapers,* Newspaper Association of America, Table 14.

was used for 2000. Duncan' s Radio Market Guide (2001 Edition) provided an estimate of newspaper advertising revenue for selected newspapers. Estimated revenue includes retail advertising, inserts, and real estate and automotive classified advertising.[14] Advertising revenue was then summed across all newspapers for which Duncan provided an estimate. This sum was divided by the total weekly circulation of the same newspapers to form an average revenue/circulation ratio. For each newspaper not among those estimated by Duncan, this ratio was multiplied by the newspaper' s average weekly circulation to get an estimate of advertising revenues.

The structural changes observable among newspapers are changes in the number of newspapers and their relative circulation size. To capture the effects of the changes, the ratio of revenue to weekly circulation calculated for each newspaper in 2000 was applied in 1975.[15]

Having estimated the advertising revenues of each commercial radio and television station and each daily newspaper in each DMA, the last step before calculating HHIs was to group together stations and newspapers under common ownership. Sources used to determine ownership were BIA, Editor & Publisher International Yearbook (1976, 2001), Broadcasting & Cable Yearbook (1976, 2001), and information on newspaper-broadcast cross-ownership supplied by NAA.

Using the procedures described above, HHIs were calculated for each sample DMA for 1975 and 2000. The results are shown in Table 4. Across the 21 DMAs in

---

[14] Classified advertising that would be placed by an individual rather than a business is not included.

[15] The underlying assumption is that average advertising revenue per radio station and average advertising revenue per television station in each DMA changed in approximately the same manner as average newspaper advertising revenue per circulation between 1975 and 2000. No information was available on average station revenues or newspaper circulation per circulation in each DMA in 1975, but national averages support this assumption.

the sample, the median HHI decreased from 2,761 in 1975 to 1,614 in 2000, a change of 1,148. This change is very significant, as it represents a decrease in concentration of about 40 percent from the 1975 HHI levels. The change was mirrored by decreases in all but one of the individual DMAs. All but one the decreases were 500 or greater, and all but two of the decreases reduced 1975 HHI levels in the DMAs by at least 20 percent. The only increase was in Little Rock. Due to the closing of the Little Rock Arkansas Gazette, Little Rock went from two newspapers of roughly equal size in 1975 to a single newspaper with roughly the combined circulation, causing concentration to increase slightly.

Projecting the sample results to the nation as a whole, it appears that with possible rare exceptions, the level of concentration of newspaper and broadcast advertising revenues has decreased markedly from the levels that prevailed in 1975.

The cross-ownership rule itself is not responsible for the dramatic decreases in concentration shown in Table 4. In seven of the 21 sample DMAs, the sale of a newspaper or broadcast station caused a pre-existing cross-ownership to be broken up. The cross-ownership rule could have had some deconcentrating effect if it is assumed that the newspaper and broadcast stations would not have been sold separately in the absence of the cross-ownership rule. In practical terms, however, the effect was mostly negligible. In these seven DMAs, a hypothetical HHI was calculated as if the previously cross-owned newspapers and broadcast stations were still cross-owned in 2000. This assumption raised HHI levels in six of the DMAs by an average of just over 40 points. In only one DMA, Omaha, would the 2000 HHI have been significantly higher had the cross-ownership not been broken apart. The Omaha HHI would have been 2,340 instead of 1,804, a change of 536 points. The total drop in HHI in Omaha between 1975 and 2000 was 644 points, implying that factors other than the cross-ownership rule were also responsible for considerable deconcentration. In all other sample DMAs, the cross-ownership rule had little or no effect on concentration.

Table 4 is useful in assessing the decrease in concentration levels since 1975, but it must be emphasized strongly that it should not be used to indicate actual concentration levels typical in the United States. First, as was pointed out previously, the HHIs presented here do not take account of competition from other newspapers, cable television, direct mail, yellow pages, outdoor and other forms of advertising. For this reason, these HHIs significantly overstate the level of concentration. Previous work on a sample of DMAs showed that concentration in a newspaper-radio-television-only market is decreased by an average of over 1,100 points when the other competing media are added.[16] Second, the sample of DMAs chosen was intended to represent the broad range of DMAs in the country by giving equal weight to all DMAs, regardless of size. In fact, most of the United States population lives in DMAs where concentration levels are relatively low.

Table 5 presents information that may be more useful as an overall picture of concentration levels among newspapers, television and radio. The first column presents HHIs from Table 4. As noted earlier, these HHIs were calculated assuming that each radio station and each television station in each DMA had the same share of advertising revenue. This assumption was necessary to make comparisons with 1975.[17] The second column presents HHIs calculated using available estimates of radio and television stations' actual advertising revenues.

---

16 See Economists Incorporated, *An Economic Analysis of the Broadcast Television National Ownership, Local Ownership and Radio Cross-Ownership Rules,* May 17, 1995, submitted in MM Docket No. 91-221, at Table 5, p. 32.

17 For broadcast stations, an equal shares assumption resembles a capacity-based HHI, which is often used to measure concentration when firms can rapidly increase their share of sales and sales shares are volatile.

This may present a better picture of present concentration.[18] The next two columns show the 2000 population in each DMA and what share of population in the sample DMAs is found in each individual DMA. These shares can be used to calculate weighted average HHIs, as shown in the last two columns. By this measure, the average HHI is about 1,360 to 1,667. HHIs would be significantly lower if other competing media were included in the calculation.

Joint Ownership and Cooperation

Newspaper owners anticipate that closer cooperation between jointly-owned newspapers and broadcast stations can bring significant benefits.[19] Among the potential benefits are the following:

- Newspapers and broadcasters can more readily share leads. For instance, a newspaper may alert an affiliated broadcast station about a story that would not otherwise be covered by the station (or covered only at a later time).
- Newspapers and broadcasters can more readily share news. Information gathered by a newspaper reporter, for instance, could be used in a story reported on a broadcast news show.
- Newspapers and broadcasters can more readily share news personnel. For instance, a television meteorologist can prepare forecasts for the newspaper, a broadcast reporter can write an article for the newspaper, or a newspaper reporter can appear in a broadcast news show.

[18] These levels are somewhat overstated because stations for which BIA provides no revenue estimate were assumed to have zero revenues; assigning some positive revenues to these stations would reduce HHIs.

[19] More detail is provided in Comments of the Newspaper Association of America to the NPRM.

- Newspapers can direct their readers to information available on the broadcast news, and broadcast stations can direct their audience to information available in the newspaper.
- Newspapers and broadcast stations can collaborate in operating and providing content to an Internet website.
- Newspapers and broadcasters can reduce duplication, resulting in lower costs and expanded services. For instance, some news events that would otherwise be covered by different reporters from the newspaper and the broadcaster might be covered by a single reporter. This could free up another reporter to cover an event that would otherwise not be covered.
- Newspapers and broadcast stations may also realize cost savings in such areas as administration and support services.

In any deliberation about whether to impose or retain a regulation, the basic test is whether the net benefits of the regulation outweigh the net benefits of not having the regulation. Examples of cooperation that can be achieved by jointly-owned newspapers and broadcast stations were provided above. Such cooperation is relevant to the benefits of removing the regulation if a) the likelihood of such cooperation is increased by cross-ownership or b) such cooperation can be achieved at lower cost through cross-ownership.

Firms can choose from among a number of forms of coordination available to them. Arms-length market transactions between two firms are very common. This can be as simple as a one-time purchase-sale exchange without any contractual relationship. For other types of coordination, firms may use contracts to lay out the responsibilities of each firm in the cooperative relationship. One form of contractual relationship is a joint venture—following contractual rules, firms cooperate to achieve a common objective. Internal non-market coordination is also very common. In this case, the cooperating parties are under common ownership, and coordination tasks such as the assignment of responsibilities and monitoring are made within the firm.

Economists routinely assume that firms attempt to maximize profits. When two independent firms propose a merger or acquisition to achieve common ownership, it is possible that they are attempting to increase profits through the acquisition of market power. Antitrust analysis has been developed by the Department of Justice (DOJ) and the Federal Trade Commission (FTC) with the purpose of detecting and preventing acquisitions that would tend to reduce competition. It is crude and simplistic for the FCC to bar all newspaper-broadcaster joint ownership on the grounds that some combinations could reduce competition.

If firms choose joint ownership rather than some other form of coordination for reasons other than acquiring or exercising market power, it is presumed that the joint ownership is the most efficient way to organize and cooperate. Joint ownership can benefit society in at least two ways. First, the jointly-owned firm can conserve on the resources used to achieve coordination between what had been independent firms. The resources that are freed up are available for other productive uses in the economy. Second, there may be some cooperative projects which have an uncertain payoff. If the coordination costs are too high, the firms will simply not undertake the project. Thus, permitting coordination at lower cost can induce firms to undertake cooperative projects they would otherwise not undertake.

Joint ownership is not necessarily more efficient than other alternative forms of cooperation in every situation. For example, a recent trend in management has been outsourcing—replacing activities previously performed within the firm with goods and services purchased from independent suppliers. However, economists have identified a number of conditions which tend to induce firms to choose joint ownership rather than other means of coordination such as arms-length market transactions.[20] Several of these conditions appear likely to be present for the type of cooperative projects that newspapers may undertake with a television station or radio station.

a) *Complete contracts are costly or impossible.* Firms use contracts to specify the actions that each agrees to take. In some cases, which actions would be most desirable will depend on future conditions that are unknown when the contract is written. To some extent, this can be addressed by including " contingencies" in the contract. This is difficult when the parties anticipate many different future states of the world that call for different actions. If there is a great deal of uncertainty about the future, it may be impossible to adequately identify the contingencies and agree in advance what actions should be taken. When the two firms are under common ownership, a single decision-maker can assess conditions as they arise and direct the firms to take the most desirable actions.

There is considerable uncertainty about the nature and extent of cooperation it will be desirable for a newspaper and a broadcaster to undertake. For this reason, it is difficult to write a contract that will specify in advance just what each party should do. It is quite possible that internal decision-making within a jointly-owned newspaper-broadcaster firm would have the flexibility to deal with developing situations, whereas firms involved in a contractual relationship would be unable to react appropriately or do so at a much higher transaction cost.

b) *Monitoring effort and performance is difficult.* In addition to uncertainty about the state of the world, firms seeking to cooperate may have difficulty determining

[20] These conditions are discussed in Oliver Williamson, *Markets and Hierarchies: Analysis and Antitrust Implications* (New York: The Free Press, 1975); Oliver Williamson, *The Economic Institutions of Capitalism* (New York: The Free Press, 1985); and Benjamin Klein, Robert G. Crawford and Armen A. Alchian, " Vertical Integration, Appropriable Rents, and the Competitive Contracting Process," *The Journal of Law and Economics*, October 1978, pp. 297-326.

whether each has actually performed as agreed. For example, suppose two firms agree that one will provide carbon steel plates to the other. Their agreement will probably include the quantity to be supplied, the dimensions of the plates, the quality or chemistry of the steel, the time and place at which delivery will occur, and the price to be paid. In such a transaction, as in numerous similar transactions throughout the economy, it is relatively easy for both the seller and the buyer to determine whether each has upheld its part of the bargain, because each part of the agreement is measurable and verifiable.

In contrast, when it is information, rather than some physical good, that one firm supplies to another, the firms will generally experience difficulties in setting up an appropriate contract and policing the terms of the contract.[21] If a broadcast station and a newspaper agree to supply news leads and information to one another, for instance, it is difficult for either party to measure the quality or quantity of the information provided. In such situations, a jointly-owned firm may be better suited to assure that both the newspaper and the broadcast station are forthcoming and cooperative in providing the information that is to be exchanged.

Note that the advantages that joint ownership offers in dealing with incomplete contracts and monitoring effort and performance would be reduced significantly if joint ownership were not coupled with some degree of joint management. If jointly owned firms were compelled to keep their management functions separate, there would be no one in a position to resolve unanticipated coordination problems as they arise, nor anyone able to observe the degree of effort of both cooperating parties from the inside. For this reason, imposing

[21] See Williamson, *Markets and Hierarchies*, pp. 86-7.

structural separation may eliminate some of the key advantages of joint ownership of a newspaper and a broadcast station.[22]

c) *Asset value depends heavily on a specific use.*[23] Firms sometimes make investments in assets whose value depends critically on the behavior of a key supplier or customer. When this occurs, one of the parties may be vulnerable to "opportunistic behavior" by the other. For instance, suppose that a supplier locates its plant close to its principal customer in order to reduce the supplier's transportation cost. Once the supplier's plant is built, the customer can threaten to stop purchases unless it receives a significant price reduction; if the supplier's only option is to sell to more distant customers at much greater cost, it may be forced to accept the low price, even if it cannot recover the cost of its investment at the low price. Unless the supplier can get protection against such opportunistic behavior, it may be unwilling to build a plant near the customer and so will lose the cost savings that proximity would have achieved. If contracts cannot provide adequate protection, the only firm willing to invest in the supplying plant may be the customer itself. In other words, a particular type of investment may only be undertaken if there is joint ownership.

Several forms of newspaper-broadcast cooperation discussed above require investments by one or both of the parties. A television news department, for instance, may devote resources to training newspaper staff in how to prepare and present a news story on air, since this requires skills that newspaper reporters may not otherwise have. The television news department may also devote resources in obtaining training in how to write or contribute to newspaper articles. All of these investments have little use to the television station outside of the cooperation with the newspaper. Most communities have

---

[22] The Commission raises the possibility of structural separation in NPRM, ¶51.

[23] See Williamson, *The Economic Institutions of Capitalism*, pp. 95-6.

only one metropolitan daily newspaper, so there may be limited opportunities to use these skills in collaborating with another local newspaper. If the newspaper were to behave " opportunistically," the television station could get a much smaller return on its investment than it intended. Out of fear of such opportunistic behavior, a television station may be unwilling to make the needed investments. It may be that the only effective assurance against opportunistic behavior is for the newspaper and the television station to be jointly owned.

The cooperation that is anticipated between newspapers and broadcast stations is similar in some important ways to situations in which common ownership has been found to be desirable. One cannot say that cooperation will not happen without common ownership. However, one can say that, without common ownership, such cooperation may be at greater cost and be more limited. It is also possible that, in some instances, newspaper-broadcast cooperation will not be undertaken at all without common ownership.

These are the potential benefits from cross-ownership. Where markets are unconcentrated, there is no economic benefit from prohibiting cross-ownership. No general prohibition is warranted, and any competitive concerns that emerge can be handled by the appropriate antitrust agencies.

Conclusion

A structural analysis of 21 DMAs was undertaken to determine how competitive conditions among newspaper, radio and television have changed since the enactment of the cross-ownership ban in 1975. Within these consistently defined geographic areas, estimated ownership concentration of advertising revenues fell or was unchanged in 20 of the 21 areas studied, and changes were very substantial. These findings indicate that the structural conditions for advertising competition have improved, such that a broad prohibition is no longer needed to maintain competitive conditions at their 1975 level.

A proper analysis of how competitive structure would be changed by increased cross-ownership should be conducted by the antitrust agencies on a case-by-case basis. Such an analysis would take account of such factors as the relative sizes of the two entities that would be cross-owned, the concentration of advertising revenues among newspaper, television and radio as well as other competing media, and the proper definition of the relevant geographic market in that area. The competitive concerns are indistinguishable from the concerns raised in anti-trust analysis. No across-the-board prohibition on cross-ownership is warranted.

Newspapers and broadcast stations may improve their news product and realize cost efficiencies through sharing of news leads, sources, personnel and operations in various forms. Economic theory finds that the types of cooperation that appear most likely may not be undertaken, or undertaken only at greater cost, if a cross-ownership ban prevents newspapers and broadcast stations from being brought under common ownership.

Table 1. Sample DMAs and Rank

DMA	1997 Rank	2001 Rank
Chicago	3	3
Phoenix	17	16
Raleigh-Durham	29	29
Nashville	33	30
New Orleans	41	43
Little Rock-Pine Bluff	57	56
Flint-Saginaw-Bay City	62	64
Omaha	75	75
South Bend-Elkhart	85	87
El Paso	99	101
Lansing	106	111
Reno	119	110
Corpus Christi	128	129
Bakersfield	132	130
Lubbock	147	148
Panama City	159	159
Utica	166	168
Lake Charles	179	174
Great Falls	184	187
Charlottesville	199	192
Victoria	206	204

Table 2. Number of Commercial Radio and Television Stations in Sample DMAs

DMA	Commercial Radio Stations			Commercial Television Stations		
	1975	2000	Change	1975	2000	Change
Bakersfield	17	35	18	3	4	1
Charlottesville	6	12	6	1	1	0
Chicago	96	111	15	7	13	6
Corpus Christi	20	40	20	3	4	1
El Paso	23	26	3	3	7	4
Flint-Saginaw-Bay City	36	54	18	3	5	2
Great Falls	13	21	8	2	6	4
Lake Charles	7	13	6	1	2	1
Lansing	20	24	4	2	5	3
Little Rock	64	111	47	3	9	6
Lubbock	27	43	16	3	6	3
Nashville	100	137	37	4	10	6
New Orleans	44	56	12	4	8	4
Omaha	30	45	15	3	5	2
Panama City	17	32	15	2	5	3
Phoenix	60	117	57	6	15	9
Raleigh-Durham	74	87	13	3	9	6
Reno	22	38	16	3	6	3
South Bend-Elkhart	27	40	13	4	4	0
Utica	15	24	9	2	3	1
Victoria	3	7	4	1	2	1
Total	721	1,073	352	63	129	66
Median	23	40	17	3	5	2

Table 3. Number and Circulation Concentration of Newspapers in Sample DMAs

DMA	Number of Daily Newspapers			HHI of Weekly Circulation		
	1975	2001	Change	1975	2001	Change
Bakersfield*	2	2	0	10,000	9,284	-716
Charlottesville	1	1	0	10,000	10,000	0
Chicago*	32	23	-9	3,155	3,085	-70
Corpus Christi*	2	2	0	10,000	9,047	-953
El Paso*	4	2	-2	7,113	6,497	-616
Flint-Saginaw-Bay City	8	7	-1	6,974	6,589	-386
Great Falls*	2	2	0	10,000	8,592	-1,408
Lake Charles	1	3	2	10,000	6,540	-3,460
Lansing	3	3	0	4,901	5,000	99
Little Rock-Pine Bluff*	16	14	-2	3,175	5,778	2,603
Lubbock*	3	2	-1	8,291	8,470	180
Nashville	9	9	0	5,577	6,132	555
New Orleans*	7	7	0	9,249	7,085	-2,164
Omaha	7	7	0	6,306	8,234	1,928
Panama City	1	2	1	10,000	8,017	-1,983
Phoenix*	8	9	1	7,313	5,868	-1,445
Raleigh-Durham*	8	12	4	3,072	2,569	-503
Reno*	4	6	2	6,701	5,223	-1,479
South Bend-Elkhart*	9	9	0	3,739	2,627	-1,111
Utica*	4	5	1	6,952	3,816	-3,136
Victoria	1	1	0	10,000	10,000	0
Sample DMAs:						
Total	132	128	-4	-	-	-
Median	4	5	1	7,113	6,540	-573
DMAs without missing circulation information:						
Total	31	33	2	-	-	-
Median	2	3	1	8,487	7,303	-1,184

*1975 circulation was not available for one or more newspapers; missing circulation treated as zero for HHI calculation.

Table 4. Estimated Advertising HHIs in Sample DMAs

DMA	1975 HHI	2000 HHI	Change
Bakersfield	3,233	2,657	-575
Charlottesville	4,037	3,498	-539
Chicago	1,793	984	-809
Corpus Christi	4,070	2,379	-1,691
El Paso	2,761	1,723	-1,038
Flint-Saginaw-Bay City	2,531	1,559	-973
Great Falls	6,164	3,649	-2,515
Lake Charles	4,758	2,603	-2,155
Lansing	2,168	1,408	-760
Little Rock-Pine Bluff	1,355	1,399	44
Lubbock	2,972	1,635	-1,337
Nashville	1,874	1,133	-740
New Orleans	3,047	1,595	-1,452
Omaha	2,448	1,804	-644
Panama City	3,055	1,977	-1,079
Phoenix	2,172	1,521	-650
Raleigh-Durham	990	781	-209
Reno	2,017	1,454	-563
South Bend-Elkhart	1,843	1,250	-593
Utica	3,063	1,614	-1,450
Victoria	8,611	6,533	-2,078
Median	2,761	1,614	-1,148

Table 5. Weighted Average 2000 Estimated HHIs

DMA	Estimated HHI: Equal Shares	Estimated HHI: Estimated Shares	Population	Population Weight	HHI x Population Weight: Equal Shares	HHI x Population Weight: Estimated Shares
Bakersfield	2,657	2,756	571,000	2.0%	54	56
Charlottesville	3,498	3,555	148,000	0.5%	18	19
Chicago	984	1,326	9,018,000	32.0%	315	424
Corpus Christi	2,379	2,523	552,000	2.0%	47	49
El Paso	1,723	1,801	882,000	3.1%	54	56
Flint-Saginaw-Bay City	1,559	1,696	1,195,000	4.2%	66	72
Great Falls	3,649	3,768	167,000	0.6%	22	22
Lake Charles	2,603	2,928	247,000	0.9%	23	26
Lansing	1,408	1,664	661,000	2.3%	33	39
Little Rock-Pine Bluff	1,399	1,584	1,292,000	4.6%	64	73
Lubbock	1,635	1,909	403,000	1.4%	23	27
Nashville	1,133	1,371	2,156,000	7.6%	87	105
New Orleans	1,595	1,799	1,736,000	6.2%	98	111
Omaha	1,804	1,965	985,000	3.5%	63	69
Panama City	1,977	2,335	332,000	1.2%	23	27
Phoenix	1,521	2,172	3,779,000	13.4%	204	291
Raleigh-Durham	781	1,012	2,268,000	8.0%	63	81
Reno	1,454	1,549	610,000	2.2%	31	33
South Bend-Elkhart	1,250	1,672	855,000	3.0%	38	51
Utica	1,614	1,729	269,000	1.0%	15	16
Victoria	6,533	6,589	82,000	0.3%	19	19
Median	1,614	1,801				
Total	43,157	47,704	28,208,000	100.0%	1,360	1,667
Weighted Average	1,360	1,667				

BEHAVIORAL ANALYSIS OF NEWSPAPER-BROADCAST CROSS-OWNERSHIP RULES IN MEDIUM AND SMALL MARKETS

Economists Incorporated

January 2002

Introduction and Summary

The Commission is again reviewing its rule prohibiting the ownership by a single party of a broadcast station and a daily newspaper in the same locale.[1] The Commission states that the rule rests at least in part on the goal of promoting economic competition, specifically with regard to the market for advertising.[2] The purpose of this analysis is to determine whether or not the advertising rates charged by cross-owned daily newspapers are any higher than the rates charged by non-cross-owned properties, controlling for other factors. Indeed, in the current NOI the Commission states: "Studies and other evidence showing that advertising rates for newspaper/broadcast combinations are significantly higher than advertising rates for separately owned newspapers and broadcast stations would be particularly useful."

In analyzing competition, the Commission relies on the standard antitrust paradigm, that cross-ownership may facilitate the creation or exercise of market power, permitting a firm to raise prices. In the current NOI, the Commission states, "As we review our newspaper/broadcast cross-ownership policies, we

[1] *Notice of Inquiry* (NOI), In the Matter of Cross-Ownership of Broadcast Stations and Newspapers, MM Docket No. 01-235, and Newspaper/Radio Cross-Ownership Waiver Policy, MM Docket No. 96-197.
[2] NOI, ¶ 19.

therefore seek information about the economic impact of maintaining or modifying the rule. As we do so, we focus on the primary economic market in which broadcast stations and newspapers may compete: advertising."[3] In particular, the Commission focuses on competition among newspapers, television and radio in the sale of advertising. Although this focus is overly narrow because it excludes other relevant competing media, the estimation of revenues for other advertising media for a meaningful geographic area is an exceedingly difficult undertaking and is beyond the scope of this paper. In this analysis we investigate the relationship between newspaper advertising prices and cross-ownership for a sample of over 1,400 newspapers, taking into account ownership concentration of advertising in these three media and other relevant factors.

A study previously completed by Economists Incorporated[4] using the same sample of newspapers provided no indication that cross-owned newspapers charge higher advertising prices than other newspapers, once other relevant factors are controlled for. These 1,400 newspapers were drawn from all 211 DMAs, representing markets of all size. Although we believe that the previous analysis indicates no competitive justification for a broad prohibition on cross-ownership regardless of market size, the purpose of this analysis is to demonstrate conclusively the robustness of our previous results in smaller markets.

[3] NOI, ¶ 19.

[4] Structural and Behavioral Analysis of the Newspaper-Broadcast Cross-Ownership Rules, Economists Incorporated, July 1998.

Competition in Advertising

As explained in the Department of Justice and FTC's *Horizontal Merger Guidelines*,[5] an important step in evaluating the competitive effect of a merger is determining the relevant product market. Starting from the point of view of customers for whom the merging media are good substitutes, the relevant product market should include all the products which a hypothetical monopolist must control in order to profitably raise prices to those customers.[6] Economists are in general agreement that the higher the concentration of ownership in a relevant market, the greater the likelihood that anticompetitive behavior will occur.

The Commission invites comment on whether daily newspapers, radio stations and television stations compete one with another for the sale of advertising.[7] Indeed, there can be no competitive rationale for the cross-ownership rule unless the relevant product market is at least this broad. Although the Commission acknowledges that cable television may also compete in this advertising market,[8] and we would further argue that newspapers other than daily newspapers, direct mail, yellow pages, and outdoor advertising are other media that compete with newspaper, radio and television advertising, this paper focuses on only those media that are the subject of the cross-ownership rule.

Concentration

Although cross-ownership by definition increases concentration at least marginally, the purpose of this analysis is to measure any price effects of cross-

---

[5]Department of Justice and Federal Trade Commission Horizontal Merger Guidelines, Federal Register, Vol. 57, No. 176, September 10, 1992.
[6]Horizontal Merger Guidelines, § 1.11.
[7] NOI, ¶ 19.
[8] NOI, ¶ 22.

ownership holding constant concentration. We measure competition through the use of the Herfindahl-Hirschman Index (HHI).

Competitive analysis requires the definition of a relevant geographic market. This paper does not focus on identifying a single correct definition of the geographic market. For obvious reasons, public data on audiences are based on certain industry-standard geographic definitions. It is difficult to find data for geographic areas defined in other ways. Industry-standard geographic markets are far from arbitrary. Indeed, they should serve as an obvious focal point for competitive analysis because they are areas that the rating services have found most valuable to their customers—advertisers and advertising media.

For purposes of this analysis we use DMAs as a proxy for media advertising markets. Since what advertising media are measurably selling, and advertisers are measurably buying, from a geographic perspective is a DMA (or another industry-standard area), it makes sense to focus on such areas when considering the effects of media combinations. HHIs were calculated based on 1997 revenues attributable to each radio station, television station, or newspaper owner in the DMA. BIA was the source for radio and TV station revenues. Duncan's Radio Market Guide (1998) provided an estimate of newspaper advertising revenue for selected newspapers. Estimated revenue includes retail advertising, inserts, and commercial real estate and dealer automotive classified advertising.[9] Advertising revenue was then summed across all newspapers for which Duncan provided an estimate. This sum was divided by the total weekly circulation of the same newspapers to form an average revenue/circulation ratio. For each newspaper not among those estimated by Duncan, this ratio was multiplied by the

[9] Classified advertising that would be placed by an individual rather than a business is not included.

newspaper's average weekly circulation to get an estimate of advertising revenues.

Having estimated the advertising revenues of each commercial radio and television station and each daily newspaper in each DMA, the last step before calculating HHIs was to group together stations and newspapers under common ownership. Sources used to determine ownership were BIA, Editor & Publisher International Yearbook (1998), Broadcasting & Cable Yearbook (1997), and information on newspaper-broadcast cross-ownership supplied by the Newspaper Association of America (NAA).[10]

Procedures and Findings

The behavioral analysis contained here is a reduced-form regression analysis of daily newspaper advertising rates. A regression analysis is a statistical method generally designed to test a particular economic hypothesis. The regression analysis is implemented through the formulation and estimation of a model, the specification of the general relationship between a set of variables. Although a reduced-form model can be derived explicitly from a set of underlying structural equations which separately model the demand and supply for advertising from first principles, in this analysis the price of advertising for each newspaper is taken to be the result of this underlying equilibrium relationship without specifying the details, and assumed to be related to a set of exogenous explanatory variables.

The simplicity of the reduced form approach places certain restrictions on the choice of explanatory variables. For example, variables such as circulation or

[10] BIA information from 1997 was used to determine ownership as of 1997, the year of the revenue estimates. The source databases were Version 1.6, issued February 1997 (radio) and Version 1.7, issued June 1997 (television).

total advertising revenues which could plausibly have an effect on price as well as being affected by price (i.e., variables which are endogenous to the underlying system) must be excluded from the estimated equation.[11]

The 1998 Editor and Publisher Yearbook contains data on circulation and advertising rates for 1,509 U.S. daily newspapers. These data were combined with data from BIA, U.S. Census data, and other state-level data, in addition to the HHIs described below. The regression analysis utilizes data on each of the 1,412 U.S. daily newspapers for which these other data were also available. The equations to be estimated are of the following general form:

$$P_i = \alpha_0 + \alpha_1{*}X_i + \alpha_2{*}Y_j + \alpha_3{*}Z_k + \alpha_5{*}HHI_j + \alpha_6{*}XOWN_i + \varepsilon_i$$

The following categories list the universe of variables which were considered for analysis:

P_i = The price per inch of advertising in newspaper i for the daily edition.[12]

X_i = Individual characteristics of newspaper i, such as newsstand price (daily edition), a dummy variable for papers which publish both morning and evening editions, population in the city where newspaper i is published, dummy variables for Saturday and Sunday editions, and a dummy variable for newspaper format (tabloid vs. broadsheet).

[11] The determination of which variables are actually exogenous with regard to the underlying system is of critical importance from an empirical perspective. For an extensive discussion of this issue in this exact context, see Bruce M. Owen, "Newspaper and Television Joint Ownership," *The Antitrust Bulletin*, Vol. 18 (1973), and especially James N. Rosse, "Credible and Incredible Economic Evidence: Reply Comments in FCC Docket 18110," Stanford University RCEG, 1971.

[12] The rate used is the open inch rate. A standardized measure which controls for newspapers of differing physical size and number of columns would be more appropriate, but such data are simply not available for such a large sample of daily newspapers.

Y_j = Characteristics of the DMA market j in which newspaper i is published. Market level measures include per capita income, retail sales, number of television households, expected and historical population growth, expected and historical household growth, percentage of the population belonging to various ethnic groups, as well as variables which indicate the presence of other competing media in this market, such as number of AM and FM radio stations, the number of UHF and VHF television stations, and cable penetration in DMA market j.

Z_k = Characteristics of the state k in which newspaper i is published, including state Gross Domestic Product (GDP), the average level of wages in state k, and the price per kilowatt-hour of energy in state k.[13]

HHI_j = The level of market concentration in DMA market j, where the market here is defined as radio, television, and newspaper advertising (see discussion on the construction of the HHIs above).

$XOWN_i$ = A dummy variable indicating whether newspaper i is cross-owned.

[Note: all variables except dummy variables and variables which may take on values less than or equal to zero (*e.g.*, variables which denote a percent change) are expressed in natural logarithms.]

A regression model was first formulated using those independent variables from the above list which yielded the best explanatory fit. A separate regression was then run adding to the basic model the HHI variable and the cross-ownership dummy variable.

[13] State GDP is considered to be a general proxy for demand in state k. Wages and the price of energy are supply factors, related to the cost of actually publishing the newspaper.

The cross-ownership dummy variable is used to measure the net impact of cross-ownership on newspaper advertising rates. Dummy variables are a convenient way of testing for the presence of structural differences between two groups of observations, controlling for other factors. The dummy variable $XOWN_i$ in the equation above provides a numerical estimate of the magnitude of the net effect of cross-ownership on newspaper advertising rates. The 5% statistical test of significance for the coefficient on $XOWN_i$ can be interpreted as a test of whether cross-ownership has any net effect on newspaper advertising rates. The results of the regression analysis from Economists Incorporated's 1998 study on the effects of cross-ownership are presented in Table 1 below.[14]

Previous results

Table 1 - Previous Results (Instrumental Variables)

Variable	Parameter Estimate	Standard Error	t-Statistic
Intercept	-3.623*	0.843	-4.296
Price of Electricity	0.142*	0.051	2.757
Population	0.449*	0.009	49.337
Newsstand Price, Daily Edition	0.109*	0.044	2.481
Saturday Edition	0.243*	0.026	9.252
Sunday Edition	0.168*	0.026	6.467
Percent Population Hispanic	-0.054*	0.010	-5.694
Per Capita Income	0.116	0.062	1.885
HHI	0.032	0.056	0.563
Cross-Owned	0.086	0.064	1.353
$R^2 = 0.7934$	* denotes statisitcally significant at the 5% level		

There are several indications that the estimated model in Table 1 provides an excellent overall fit to the data. First is the R^2 of the regression, which measures how much of the variation in the dependent variable (newspaper advertising

[14] Table 1 is a reprint of Table 7 from Structural and Behavioral Analysis of the Newspaper-Broadcast Cross-Ownership Rules, Economists Incorporated, July 1998.

prices) is explained by these independent variables. The high value of 79.34% is a strong indicator that this regression has adequate explanatory power. In addition, the signs and magnitudes of the coefficients on each of the independent variables are consistent with what economic theory would predict. For example, the price of electricity is assumed to be a supply factor with regard to the publishing of newspapers, and has its expected positive sign. From the high value and significance level of the city population coefficient, it is clear that this variable has the most important positive effect on price.[15] Although newsstand price (daily edition), Saturday edition, and Sunday edition may have both cost and demand effects, the expectation is that they are more an indication of newspaper quality, and thus would be expected to have a positive effect on advertising prices.[16] No prior conjecture was made with regard to the effect on price of the percent of the DMA market population that is Hispanic, nor any of the other ethnic composition variables which were tried in the equation but found statistically insignificant. Clearly, DMA markets with higher per capita income are more attractive to advertisers, so that higher per capita income should (and does) have a positive influence on price.

If cross-ownership were to have a significant (positive) effect on prices, allowing for the overall level of concentration, then the XOWN dummy variable should also appear as a significant variable in the regression equation. However, the

[15] Information on population is taken from SRDS, *Circulation '97*. For newspapers with information on Newspaper Designated Marketing Area (NDM) population, the city population is equal to the NDM population. For newspapers with no information on NDM population, the City Zone (CZ) population was used. For newspapers with no information on either NDM or CZ population, the city population was taken from 1996 U.S. Census data. For a small number of large metropolitan areas in which each of these measures likely understates the potential readership (*e.g.*, Los Angeles), the Metro Area population was used as reported in *Circulation*.

[16] Because of the relative infrequency of changes in the edition structure or the newsstand price. of most daily newspapers, it is less likely that these variables could plausibly be the dependent variable in a regression with the price of advertising as an explanatory variable. Thus, the question of endogeneity is unlikely to arise here.

XOWN dummy variable was *not* found to be a significant factor in explaining newspaper advertising prices, controlling for other factors.

The HHIs in the regression assume a market which includes newspapers, radio, and TV. In the regression estimates in Table 1, HHI is not statistically significant. Finding that HHI is not significant could indicate that the relevant product market has been defined too narrowly. Newspaper, radio, and television also compete with other forms of advertising that were not included (*e.g.*, cable television, outdoor advertising, direct mail, etc.).

Smaller Markets

Having demonstrated that cross-ownership has no significant price effects across markets of all size, we turn our analysis now to the question of smaller markets. There are several ways to focus our analysis on smaller markets. The first is to simply run the original analysis on a subset of the data which excludes larger markets. The regression model in Table 1 was run again for the following market subsets, based on ranking the DMAs from largest to smallest: the smallest 52 DMAs (the lowest quartile), DMAs 106-158 (the third quartile), and the bottom 105 DMAs (the bottom half). The results of these analyses are presented in Table 2 as follows:[17]

Table 2 - Results for Smaller Markets Only (Instrumental Variables)

Variable	Parameter Estimate for Cross-Ownership Dummy Variable	Standard Error	t-Statistic
DMAs 159-211 (lowest quartile)	-0.006	0.165	-0.040
DMAs 106-158 (third quartile)	0.078	0.105	0.740
DMAs 106-211 (bottom half)	0.078	0.145	0.540

[17] Table 2 presents only the coefficients on the cross-ownership variable. The full regression results for each of the three regressions are omitted. The parameter estimates and significance levels for the other variables are qualitatively similar to the results for the entire sample presented in Table 1.

In all three sub-samples, the cross-ownership dummy variable is far from statistically significant, demonstrating that cross-ownership has no effect on advertising prices in each of these quartiles.

Another way to concentrate on smaller markets is to estimate a separate effect of cross-ownership for each DMA separately. This approach provides the maximum flexibility in isolating the effect of cross-ownership across market size by allowing any potential price effect of cross-ownership to differ for each and every market.[18] A regression similar to the analysis displayed in Table 1 was run, including a separate variable for the effect of cross-ownership in each DMA. Below in Table 3, the individual coefficients are presented for all DMAs which contain any cross-owned newspaper and broadcast properties in the bottom half of the rankings.[19]

Table 3 - Results for Each DMA Separately (Instrumental Variables)

DMA	Parameter Estimate for Cross-Ownership Dummy Variable for Particular DMAs	Standard Error	t-Statistic
DMA 113	0.121	0.408	0.300
DMA 126	0.255	0.408	0.630
DMA 139	0.369	0.408	0.910
DMA 141	-0.122	0.408	-0.300
DMA 148	-0.153	0.411	-0.370
DMA 161	0.095	0.410	0.230
DMA 167	0.060	0.408	0.150
DMA 168	-0.088	0.410	-0.210
DMA 182	-0.237	0.413	-0.570

[18] Out of the full sample of 1,412 newspapers, 45 of them are cross-owned. These newspapers are published in 39 DMAs.

[19] Table 3 presents only the coefficients on the cross-ownership variables. The full regression results for the three regressions are omitted. The parameter estimates and significance levels for the other variables are qualitatively similar to the results for the entire sample presented in Table 1.

For each of the nine DMAs out of the bottom 106 DMAs which contain any cross-owned newspapers, the effect of cross-ownership on price is far from statistical significance, demonstrating that cross-ownership has no effect on advertising prices in these smaller markets.

Possible Measurement Error

The HHIs used in this analysis are potentially subject to at least two types of measurement error. First, it is unlikely that the DMA is the proper geographic market for all of the daily newspapers in the sample. For example, small newspapers compete in geographic markets that are considerably smaller than the DMA. Practical necessity dictated using DMAs, as it was not possible for this study to undertake a detailed analysis of the correct geographic market for over 1,400 newspapers. Second, there may be significant imprecision in the revenue estimates for individual newspapers, television and radio stations.

To account for this measurement error in the HHI calculations, the model described above was estimated using instrumental variables (IV). The essence of the IV approach is to find variables which can help to predict the variable which is suspected of measurement error, but which are unrelated to the dependent variable. Although the exact revenues for each of the radio, television, and newspapers in each DMA is not known exactly, the *number* of each type of property in each DMA is known exactly. These counts are clearly correlated with the HHIs, and thus are a natural choice to serve as instruments. Thus, the total number of radio stations, television stations, and newspapers in each DMA are used in a "first-stage" regression to predict the value of the HHI for that DMA. This predicted value is the one which appears in the final models in Tables 1-3.

Conclusion

This paper finds no reason to believe that cross-ownership is likely to lead to higher prices, specifically in smaller DMAs. We focused our analysis on smaller markets using two separate analyses. The first performed standard regression analyses on subsets of data which included only smaller markets. The second analysis tested for any potential impact of cross-ownership for each and every DMA separately. After controlling for other factors, there was no statistically significant difference between advertising prices of cross-owned newspapers and those of other papers in either analysis.